

AMENDED IN ASSEMBLY JANUARY 17, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1398

Introduced by Assembly Member Arambula

February 23, 2007

An act to amend Sections 17039, 17053.34, 17053.46, 17053.47, 17053.74, 23036, 23622.7, 23622.8, 23634, and 23646 of, and to add Sections 17053.76 and 23622.9 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1398, as amended, Arambula. Targeted economic development areas: tax credits.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within enterprise zones, Manufacturing Enhancement Areas, targeted tax areas, and LAMBRAs, subject to specified criteria. The qualified taxpayer is required to obtain a certification from specified entities regarding the eligibility of the qualified employee.

This bill would, for taxable years beginning on or after January 1, 2008, suspend the operation of those separate provisions that authorize these credits under both of those laws and would, instead, authorize one hiring credit under those respective laws for qualified taxpayers who hire qualified employees, as defined, within a geographically targeted economic development area, as defined.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 **SECTION 1.** *Section 17039 of the Revenue and Taxation Code*
2 *is amended to read:*
- 3 17039. (a) Notwithstanding any provision in this part to the
4 contrary, for the purposes of computing tax credits, the term “net
5 tax” means the tax imposed under either Section 17041 or 17048
6 plus the tax imposed under Section 17504 (relating to lump-sum
7 distributions) less the credits allowed by Section 17054 (relating
8 to personal exemption credits) and any amount imposed under
9 paragraph (1) of subdivision (d) and paragraph (1) of subdivision
10 (e) of Section 17560. Notwithstanding the preceding sentence, the
11 “net tax” shall not be less than the tax imposed under Section
12 17504 (relating to the separate tax on lump-sum distributions), if
13 any. Credits shall be allowed against “net tax” in the following
14 order:
- 15 (1) Credits that do not contain carryover or refundable
16 provisions, except those described in paragraphs (4) and (5).
17 (2) Credits that contain carryover provisions but do not contain
18 refundable provisions, except for those that are allowed to reduce
19 “net tax” below the tentative minimum tax, as defined by Section
20 17062.
21 (3) Credits that contain both carryover and refundable
22 provisions.
23 (4) The minimum tax credit allowed by Section 17063 (relating
24 to the alternative minimum tax).
25 (5) Credits that are allowed to reduce “net tax” below the
26 tentative minimum tax, as defined by Section 17062.
27 (6) Credits for taxes paid to other states allowed by Chapter 12
28 (commencing with Section 18001).
29 (7) Credits that contain refundable provisions but do not contain
30 carryover provisions.
31 The order within each paragraph shall be determined by the
32 Franchise Tax Board.
33 (b) Notwithstanding the provisions of Sections 17061 (relating
34 to refunds pursuant to the Unemployment Insurance Code) and
35 19002 (relating to tax withholding), the credits provided in those

1 sections shall be allowed in the order provided in paragraph (6) of
2 subdivision (a).

3 (c) (1) Notwithstanding any other provision of this part, no tax
4 credit shall reduce the tax imposed under Section 17041 or 17048
5 plus the tax imposed under Section 17504 (relating to the separate
6 tax on lump-sum distributions) below the tentative minimum tax,
7 as defined by Section 17062, except the following credits:

8 (A) The credit allowed by Section 17052.2 (relating to teacher
9 retention tax credit).

10 (B) The credit allowed by former Section 17052.4 (relating to
11 solar energy).

12 (C) The credit allowed by former Section 17052.5 (relating to
13 solar energy, repealed on January 1, 1987).

14 (D) The credit allowed by former Section 17052.5 (relating to
15 solar energy, repealed on December 1, 1994).

16 (E) The credit allowed by Section 17052.12 (relating to research
17 expenses).

18 (F) The credit allowed by former Section 17052.13 (relating to
19 sales and use tax credit).

20 (G) The credit allowed by former Section 17052.15 (relating to
21 Los Angeles Revitalization Zone sales tax credit).

22 (H) The credit allowed by Section 17052.25 (relating to the
23 adoption costs credit).

24 (I) The credit allowed by Section 17053.5 (relating to the
25 renter's credit).

26 (J) The credit allowed by former Section 17053.8 (relating to
27 enterprise zone hiring credit).

28 (K) The credit allowed by former Section 17053.10 (relating to
29 Los Angeles Revitalization Zone hiring credit).

30 (L) The credit allowed by former Section 17053.11 (relating to
31 program area hiring credit).

32 (M) For each taxable year beginning on or after January 1, 1994,
33 the credit allowed by former Section 17053.17 (relating to Los
34 Angeles Revitalization Zone hiring credit).

35 (N) The credit allowed by Section 17053.33 (relating to targeted
36 tax area sales or use tax credit).

37 (O) The credit allowed by Section 17053.34 (relating to targeted
38 tax area hiring credit).

39 (P) The credit allowed by Section 17053.49 (relating to qualified
40 property).

1 (Q) The credit allowed by Section 17053.70 (relating to
2 enterprise zone sales or use tax credit).

3 (R) The credit allowed by Section 17053.74 (relating to
4 enterprise zone hiring credit).

5 (S) The credit allowed by Section 17054 (relating to credits for
6 personal exemption).

7 (T) The credit allowed by Section 17054.5 (relating to the credits
8 for a qualified joint custody head of household and a qualified
9 taxpayer with a dependent parent).

10 (U) The credit allowed by Section 17054.7 (relating to the credit
11 for a senior head of household).

12 (V) The credit allowed by former Section 17057 (relating to
13 clinical testing expenses).

14 (W) The credit allowed by Section 17058 (relating to
15 low-income housing).

16 (X) The credit allowed by Section 17061 (relating to refunds
17 pursuant to the Unemployment Insurance Code).

18 (Y) Credits for taxes paid to other states allowed by Chapter 12
19 (commencing with Section 18001).

20 (Z) The credit allowed by Section 19002 (relating to tax
21 withholding).

22 (AA) *The credit allowed by Section 17053.76 (relating to*
23 *geographically targeted economic development areas).*

24 (2) Any credit that is partially or totally denied under paragraph
25 (1) shall be allowed to be carried over and applied to the net tax
26 in succeeding taxable years, if the provisions relating to that credit
27 include a provision to allow a carryover when that credit exceeds
28 the net tax.

29 (d) Unless otherwise provided, any remaining carryover of a
30 credit allowed by a section that has been repealed or made
31 inoperative shall continue to be allowed to be carried over under
32 the provisions of that section as it read immediately prior to being
33 repealed or becoming inoperative.

34 (e) (1) Unless otherwise provided, if two or more taxpayers
35 (other than husband and wife) share in costs that would be eligible
36 for a tax credit allowed under this part, each taxpayer shall be
37 eligible to receive the tax credit in proportion to his or her
38 respective share of the costs paid or incurred.

39 (2) In the case of a partnership, the credit shall be allocated
40 among the partners pursuant to a written partnership agreement in

1 accordance with Section 704 of the Internal Revenue Code, relating
2 to partner's distributive share.

3 (3) In the case of a husband and wife who file separate returns,
4 the credit may be taken by either or equally divided between them.

5 (f) Unless otherwise provided, in the case of a partnership, any
6 credit allowed by this part shall be computed at the partnership
7 level, and any limitation on the expenses qualifying for the credit
8 or limitation upon the amount of the credit shall be applied to the
9 partnership and to each partner.

10 (g) (1) With respect to any taxpayer that directly or indirectly
11 owns an interest in a business entity that is disregarded for tax
12 purposes pursuant to Section 23038 and any regulations thereunder,
13 the amount of any credit or credit carryforward allowable for any
14 taxable year attributable to the disregarded business entity shall
15 be limited in accordance with paragraphs (2) and (3).

16 (2) The amount of any credit otherwise allowed under this part,
17 including any credit carryover from prior years, that may be applied
18 to reduce the taxpayer's "net tax," as defined in subdivision (a),
19 for the taxable year shall be limited to an amount equal to the
20 excess of the taxpayer's regular tax (as defined in Section 17062),
21 determined by including income attributable to the disregarded
22 business entity that generated the credit or credit carryover, over
23 the taxpayer's regular tax (as defined in Section 17062), determined
24 by excluding the income attributable to that disregarded business
25 entity. No credit shall be allowed if the taxpayer's regular tax (as
26 defined in Section 17062), determined by including the income
27 attributable to the disregarded business entity, is less than the
28 taxpayer's regular tax (as defined in Section 17062), determined
29 by excluding the income attributable to the disregarded business
30 entity.

31 (3) If the amount of a credit allowed pursuant to the section
32 establishing the credit exceeds the amount allowable under this
33 subdivision in any taxable year, the excess amount may be carried
34 over to subsequent taxable years pursuant to subdivisions (c) and
35 (d).

36 (h) (1) Unless otherwise specifically provided, in the case of a
37 taxpayer that is a partner or shareholder of an eligible pass-through
38 entity described in paragraph (2), any credit passed through to the
39 taxpayer in the taxpayer's first taxable year beginning on or after
40 the date the credit is no longer operative may be claimed by the

1 taxpayer in that taxable year, notwithstanding the repeal of the
2 statute authorizing the credit prior to the close of that taxable year.

3 (2) For purposes of this subdivision, “eligible pass-through
4 entity” means any partnership or S corporation that files its return
5 on a fiscal year basis pursuant to Section 18566, and that is entitled
6 to a credit pursuant to this part for the taxable year that begins
7 during the last year the credit is operative.

8 (3) This subdivision shall apply to credits that become
9 inoperative on or after the operative date of the act adding this
10 subdivision.

11 **SECTION 1.**

12 *SEC. 2.* Section 17053.34 of the Revenue and Taxation Code
13 is amended to read:

14 17053.34. (a) For each taxable year beginning on or after
15 January 1, 1998, there shall be allowed a credit against the “net
16 tax” (as defined in Section 17039) to a qualified taxpayer who
17 employs a qualified employee in a targeted tax area during the
18 taxable year. The credit shall be equal to the sum of each of the
19 following:

20 (1) Fifty percent of qualified wages in the first year of
21 employment.

22 (2) Forty percent of qualified wages in the second year of
23 employment.

24 (3) Thirty percent of qualified wages in the third year of
25 employment.

26 (4) Twenty percent of qualified wages in the fourth year of
27 employment.

28 (5) Ten percent of qualified wages in the fifth year of
29 employment.

30 (b) For purposes of this section:

31 (1) “Qualified wages” means:

32 (A) That portion of wages paid or incurred by the qualified
33 taxpayer during the taxable year to qualified employees that does
34 not exceed 150 percent of the minimum wage.

35 (B) Wages received during the 60-month period beginning with
36 the first day the employee commences employment with the
37 qualified taxpayer. Reemployment in connection with any increase,
38 including a regularly occurring seasonal increase, in the trade or
39 business operations of the qualified taxpayer does not constitute
40 commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Targeted tax area expiration date” means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer’s trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section

1 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
2 Institutions Code, or its successor.

3 (III) Immediately preceding the qualified employee's
4 commencement of employment with the qualified taxpayer, was
5 an economically disadvantaged individual 14 years of age or older.

6 (IV) Immediately preceding the qualified employee's
7 commencement of employment with the qualified taxpayer, was
8 a dislocated worker who meets any of the following:

9 ~~(aa)~~

10 ~~(ia)~~ Has been terminated or laid off or who has received a notice
11 of termination or layoff from employment, is eligible for or has
12 exhausted entitlement to unemployment insurance benefits, and
13 is unlikely to return to his or her previous industry or occupation.

14 ~~(bb)~~

15 ~~(ib)~~ Has been terminated or has received a notice of termination
16 of employment as a result of any permanent closure or any
17 substantial layoff at a plant, facility, or enterprise, including an
18 individual who has not received written notification but whose
19 employer has made a public announcement of the closure or layoff.

20 ~~(ee)~~

21 ~~(ic)~~ Is long-term unemployed and has limited opportunities for
22 employment or reemployment in the same or a similar occupation
23 in the area in which the individual resides, including an individual
24 55 years of age or older who may have substantial barriers to
25 employment by reason of age.

26 ~~(dd)~~

27 ~~(id)~~ Was self-employed (including farmers and ranchers) and
28 is unemployed as a result of general economic conditions in the
29 community in which he or she resides or because of natural
30 disasters.

31 ~~(ee)~~

32 ~~(ie)~~ Was a civilian employee of the Department of Defense
33 employed at a military installation being closed or realigned under
34 the Defense Base Closure and Realignment Act of 1990.

35 ~~(ff)~~

36 ~~(if)~~ Was an active member of the Armed Forces or National
37 Guard as of September 30, 1990, and was either involuntarily
38 separated or separated pursuant to a special benefits program.

39 ~~(gg)~~

1 (*ig*) Is a seasonal or migrant worker who experiences chronic
2 seasonal unemployment and underemployment in the agriculture
3 industry, aggravated by continual advancements in technology and
4 mechanization.

5 ~~(hh)~~

6 (*ih*) Has been terminated or laid off, or has received a notice of
7 termination or layoff, as a consequence of compliance with the
8 Clean Air Act.

9 (V) Immediately preceding the qualified employee's
10 commencement of employment with the qualified taxpayer, was
11 a disabled individual who is eligible for or enrolled in, or has
12 completed a state rehabilitation plan or is a service-connected
13 disabled veteran, veteran of the Vietnam era, or veteran who is
14 recently separated from military service.

15 (VI) Immediately preceding the qualified employee's
16 commencement of employment with the qualified taxpayer, was
17 an ex-offender. An individual shall be treated as convicted if he
18 or she was placed on probation by a state court without a finding
19 of guilty.

20 (VII) Immediately preceding the qualified employee's
21 commencement of employment with the qualified taxpayer, was
22 a person eligible for or a recipient of any of the following:

23 ~~(aa)~~

24 (*ia*) Federal Supplemental Security Income benefits.

25 ~~(bb)~~

26 (*ib*) Aid to Families with Dependent Children.

27 ~~(ee)~~

28 (*ic*) Food stamps.

29 ~~(dd)~~

30 (*id*) State and local general assistance.

31 (VIII) Immediately preceding the qualified employee's
32 commencement of employment with the qualified taxpayer, was
33 a member of a federally recognized Indian tribe, band, or other
34 group of Native American descent.

35 (IX) Immediately preceding the qualified employee's
36 commencement of employment with the qualified taxpayer, was
37 a resident of a targeted tax area.

38 (X) Immediately preceding the qualified employee's
39 commencement of employment with the taxpayer, was a member

1 of a targeted group as defined in Section 51(d) of the Internal
2 Revenue Code, or its successor.

3 (B) Priority for employment shall be provided to an individual
4 who is enrolled in a qualified program under the federal Job
5 Training Partnership Act or the Greater Avenues for Independence
6 Act of 1985 or who is eligible as a member of a targeted group
7 under the Work Opportunity Tax Credit (Section 51 of the Internal
8 Revenue Code), or its successor.

9 (5) (A) “Qualified taxpayer” means a person or entity that meets
10 both of the following:

11 (i) Is engaged in a trade or business within a targeted tax area
12 designated pursuant to Chapter 12.93 (commencing with Section
13 7097) of Division 7 of Title 1 of the Government Code.

14 (ii) Is engaged in those lines of business described in Codes
15 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
16 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
17 of the Standard Industrial Classification (SIC) Manual published
18 by the United States Office of Management and Budget, 1987
19 edition.

20 (B) In the case of any passthrough entity, the determination of
21 whether a taxpayer is a qualified taxpayer under this section shall
22 be made at the entity level and any credit under this section or
23 Section 23634 shall be allowed to the passthrough entity and passed
24 through to the partners or shareholders in accordance with
25 applicable provisions of this part or Part 11 (commencing with
26 Section 23001). For purposes of this subdivision, the term
27 “passthrough entity” means any partnership or “S” corporation.

28 (6) “Seasonal employment” means employment by a qualified
29 taxpayer that has regular and predictable substantial reductions in
30 trade or business operations.

31 (c) If the qualified taxpayer is allowed a credit for qualified
32 wages pursuant to this section, only one credit shall be allowed to
33 the taxpayer under this part with respect to those qualified wages.

34 (d) The qualified taxpayer shall do both of the following:

35 (1) Obtain from the Employment Development Department, as
36 permitted by federal law, the local county or city Job Training
37 Partnership Act administrative entity, the local county GAIN office
38 or social services agency, or the local government administering
39 the targeted tax area, a certification that provides that a qualified
40 employee meets the eligibility requirements specified in clause

(iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to subdivision (g) of Section 7097 of the Government Code, and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(e) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23634, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year

1 and all prior taxable years attributable to qualified wages paid or
2 incurred with respect to that employee.

3 (B) If the seasonal employment of any qualified employee, with
4 respect to whom qualified wages are taken into account under
5 subdivision (a) is not continued by the qualified taxpayer for a
6 period of 270 days of employment during the 60-month period
7 beginning with the day the qualified employee commences seasonal
8 employment with the qualified taxpayer, the tax imposed by this
9 part, for the taxable year that includes the 60th month following
10 the month in which the qualified employee commences seasonal
11 employment with the qualified taxpayer, shall be increased by an
12 amount equal to the credit allowed under subdivision (a) for that
13 taxable year and all prior taxable years attributable to qualified
14 wages paid or incurred with respect to that qualified employee.

15 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
16 any of the following:

17 (i) A termination of employment of a qualified employee who
18 voluntarily leaves the employment of the qualified taxpayer.

19 (ii) A termination of employment of a qualified employee who,
20 before the close of the period referred to in subparagraph (A) of
21 paragraph (1), becomes disabled and unable to perform the services
22 of that employment, unless that disability is removed before the
23 close of that period and the qualified taxpayer fails to offer
24 reemployment to that employee.

25 (iii) A termination of employment of a qualified employee, if
26 it is determined that the termination was due to the misconduct (as
27 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
28 the California Code of Regulations) of that employee.

29 (iv) A termination of employment of a qualified employee due
30 to a substantial reduction in the trade or business operations of the
31 qualified taxpayer.

32 (v) A termination of employment of a qualified employee, if
33 that employee is replaced by other qualified employees so as to
34 create a net increase in both the number of employees and the
35 hours of employment.

36 (B) Subparagraph (B) of paragraph (1) shall not apply to any
37 of the following:

38 (i) A failure to continue the seasonal employment of a qualified
39 employee who voluntarily fails to return to the seasonal
40 employment of the qualified taxpayer.

1 (ii) A failure to continue the seasonal employment of a qualified
2 employee who, before the close of the period referred to in
3 subparagraph (B) of paragraph (1), becomes disabled and unable
4 to perform the services of that seasonal employment, unless that
5 disability is removed before the close of that period and the
6 qualified taxpayer fails to offer seasonal employment to that
7 qualified employee.

8 (iii) A failure to continue the seasonal employment of a qualified
9 employee, if it is determined that the failure to continue the
10 seasonal employment was due to the misconduct (as defined in
11 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
12 Code of Regulations) of that qualified employee.

13 (iv) A failure to continue seasonal employment of a qualified
14 employee due to a substantial reduction in the regular seasonal
15 trade or business operations of the qualified taxpayer.

16 (v) A failure to continue the seasonal employment of a qualified
17 employee, if that qualified employee is replaced by other qualified
18 employees so as to create a net increase in both the number of
19 seasonal employees and the hours of seasonal employment.

20 (C) For purposes of paragraph (1), the employment relationship
21 between the qualified taxpayer and a qualified employee shall not
22 be treated as terminated by reason of a mere change in the form
23 of conducting the trade or business of the qualified taxpayer, if the
24 qualified employee continues to be employed in that trade or
25 business and the qualified taxpayer retains a substantial interest
26 in that trade or business.

27 (3) Any increase in tax under paragraph (1) shall not be treated
28 as tax imposed by this part for purposes of determining the amount
29 of any credit allowable under this part.

30 (g) In the case of an estate or trust, both of the following apply:

31 (1) The qualified wages for any taxable year shall be apportioned
32 between the estate or trust and the beneficiaries on the basis of the
33 income of the estate or trust allocable to each.

34 (2) Any beneficiary to whom any qualified wages have been
35 apportioned under paragraph (1) shall be treated, for purposes of
36 this part, as the employer with respect to those wages.

37 (h) For purposes of this section, “targeted tax area” means an
38 area designated pursuant to Chapter 12.93 (commencing with
39 Section 7097) of Division 7 of Title 1 of the Government Code.

(i) In the case where the credit otherwise allowed under this section exceeds the “net tax” for the taxable year, that portion of the credit that exceeds the “net tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.33, including any credit carryover from prior years, that may reduce the “net tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “net tax” for the taxable year, as provided in subdivision (h).

(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area expiration date, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

(k) (1) The credit authorized by this section shall not be allowed for taxable years beginning on or after January 1, 2008.

(2) On or after January 1, 2008, taxpayers that would otherwise be eligible to claim a credit authorized by this section may claim a credit for these expenses under Section 17053.76.

(3) Notwithstanding this subdivision, the provisions of ~~subdivision (d) of Section 17039 shall apply with respect to any remaining carryover of the credit previously authorized by this section.~~ *subdivision (d) of Section 17039 shall apply to allow carryover of credits previously authorized by this section to taxable years beginning on or after January 1, 2008.*

~~SEC. 2.~~

SEC. 3. Section 17053.46 of the Revenue and Taxation Code is amended to read:

17053.46. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the “net tax” (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

1 (1) “Qualified wages” means:

2 (A) That portion of wages paid or incurred by the employer
3 during the taxable year to qualified disadvantaged individuals or
4 qualified displaced employees that does not exceed 150 percent
5 of the minimum wage.

6 (B) The total amount of qualified wages which may be taken
7 into account for purposes of claiming the credit allowed under this
8 section shall not exceed two million dollars (\$2,000,000) per
9 taxable year.

10 (C) Wages received during the 60-month period beginning with
11 the first day the individual commences employment with the
12 taxpayer. Reemployment in connection with any increase, including
13 a regularly occurring seasonal increase, in the trade or business
14 operations of the qualified taxpayer does not constitute
15 commencement of employment for purposes of this section.

16 (D) Qualified wages do not include any wages paid or incurred
17 by the qualified taxpayer on or after the LAMBRA expiration date.
18 However, wages paid or incurred with respect to qualified
19 disadvantaged individuals or qualified displaced employees who
20 are employed by the qualified taxpayer within the LAMBRA within
21 the 60-month period prior to the LAMBRA expiration date shall
22 continue to qualify for the credit under this section after the
23 LAMBRA expiration date, in accordance with all provisions of
24 this section applied as if the LAMBRA designation were still in
25 existence and binding.

26 (2) “Minimum wage” means the wage established by the
27 Industrial Welfare Commission as provided for in Chapter 1
28 (commencing with Section 1171) of Part 4 of Division 2 of the
29 Labor Code.

30 (3) “LAMBRA” means a local agency military base recovery
31 area designated in accordance with Section 7114 of the Government
32 Code.

33 (4) “Qualified disadvantaged individual” means an individual
34 who satisfies all of the following requirements:

35 (A) (i) At least 90 percent of whose services for the taxpayer
36 during the taxable year are directly related to the conduct of the
37 taxpayer’s trade or business located in a LAMBRA.

38 (ii) Who performs at least 50 percent of his or her services for
39 the taxpayer during the taxable year in the LAMBRA.

1 (B) Who is hired by the employer after the designation of the
2 area as a LAMBRA in which the individual's services were
3 primarily performed.

4 (C) Who is any of the following immediately preceding the
5 individual's commencement of employment with the taxpayer:

6 (i) An individual who has been determined eligible for services
7 under the federal Job Training Partnership Act (29 U.S.C. Sec.
8 1501 et seq.).

9 (ii) Any voluntary or mandatory registrant under the Greater
10 Avenues for Independence Act of 1985 as provided pursuant to
11 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
12 3 of Division 9 of the Welfare and Institutions Code.

13 (iii) An economically disadvantaged individual age 16 years or
14 older.

15 (iv) A dislocated worker who meets any of the following
16 conditions:

17 (I) Has been terminated or laid off or who has received a notice
18 of termination or layoff from employment, is eligible for or has
19 exhausted entitlement to unemployment insurance benefits, and
20 is unlikely to return to his or her previous industry or occupation.

21 (II) Has been terminated or has received a notice of termination
22 of employment as a result of any permanent closure or any
23 substantial layoff at a plant, facility, or enterprise, including an
24 individual who has not received written notification but whose
25 employer has made a public announcement of the closure or layoff.

26 (III) Is long-term unemployed and has limited opportunities for
27 employment or reemployment in the same or a similar occupation
28 in the area in which the individual resides, including an individual
29 55 years of age or older who may have substantial barriers to
30 employment by reason of age.

31 (IV) Was self-employed (including farmers and ranchers) and
32 is unemployed as a result of general economic conditions in the
33 community in which he or she resides or because of natural
34 disasters.

35 (V) Was a civilian employee of the Department of Defense
36 employed at a military installation being closed or realigned under
37 the Defense Base Closure and Realignment Act of 1990.

38 (VI) Was an active member of the Armed Forces or National
39 Guard as of September 30, 1990, and was either involuntarily
40 separated or separated pursuant to a special benefits program.

1 (VII) Experiences chronic seasonal unemployment and
2 underemployment in the agriculture industry, aggravated by
3 continual advancements in technology and mechanization.

4 (VIII) Has been terminated or laid off or has received a notice
5 of termination or layoff as a consequence of compliance with the
6 Clean Air Act.

7 (v) An individual who is enrolled in or has completed a state
8 rehabilitation plan or is a service-connected disabled veteran,
9 veteran of the Vietnam era, or veteran who is recently separated
10 from military service.

11 (vi) An ex-offender. An individual shall be treated as convicted
12 if he or she was placed on probation by a state court without a
13 finding of guilty.

14 (vii) A recipient of:

15 (I) Federal Supplemental Security Income benefits.

16 (II) Aid to Families with Dependent Children.

17 (III) Food stamps.

18 (IV) State and local general assistance.

19 (viii) Is a member of a federally recognized Indian tribe, band,
20 or other group of Native American descent.

21 (5) “Qualified taxpayer” means a taxpayer or partnership that
22 conducts a trade or business within a LAMBRA and, for the first
23 two taxable years, has a net increase in jobs (defined as 2,000 paid
24 hours per employee per year) of one or more employees in the
25 LAMBRA.

26 (A) The net increase in the number of jobs shall be determined
27 by subtracting the total number of full-time employees (defined
28 as 2,000 paid hours per employee per year) the taxpayer employed
29 in this state in the taxable year prior to commencing business
30 operations in the LAMBRA from the total number of full-time
31 employees the taxpayer employed in this state during the second
32 taxable year after commencing business operations in the
33 LAMBRA. For taxpayers who commence doing business in this
34 state with their LAMBRA business operation, the number of
35 employees for the taxable year prior to commencing business
36 operations in the LAMBRA shall be zero. If the taxpayer has a net
37 increase in jobs in the state, the credit shall be allowed only if one
38 or more full-time employees is employed within the LAMBRA.

39 (B) The total number of employees employed in the LAMBRA
40 shall equal the sum of both of the following:

1 (i) The total number of hours worked in the LAMBRA for the
2 taxpayer by employees (not to exceed 2,000 hours per employee)
3 who are paid an hourly wage divided by 2,000.

4 (ii) The total number of months worked in the LAMBRA for
5 the taxpayer by employees who are salaried employees divided
6 by 12.

7 (C) In the case of a taxpayer who first commences doing
8 business in the LAMBRA during the taxable year, for purposes of
9 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
10 “2,000” and “12” shall be multiplied by a fraction, the numerator
11 of which is the number of months of the taxable year that the
12 taxpayer was doing business in the LAMBRA and the denominator
13 of which is 12.

14 (6) “Qualified displaced employee” means an individual who
15 satisfies all of the following requirements:

16 (A) Any civilian or military employee of a base or former base
17 who has been displaced as a result of a federal base closure act.

18 (B) (i) At least 90 percent of whose services for the taxpayer
19 during the taxable year are directly related to the conduct of the
20 taxpayer’s trade or business located in a LAMBRA.

21 (ii) Who performs at least 50 percent of his or her services for
22 the taxpayer during the taxable year in a LAMBRA.

23 (C) Who is hired by the employer after the designation of the
24 area in which services were performed as a LAMBRA.

25 (7) “Seasonal employment” means employment by a qualified
26 taxpayer that has regular and predictable substantial reductions in
27 trade or business operations.

28 (8) “LAMBRA expiration date” means the date the LAMBRA
29 designation expires, is no longer binding, or becomes inoperative.

30 (c) For qualified disadvantaged individuals or qualified displaced
31 employees hired on or after January 1, 2001, the taxpayer shall do
32 both of the following:

33 (1) Obtain from the Employment Development Department, as
34 permitted by federal law, the local county or city Job Training
35 Partnership Act administrative entity, the local county GAIN office
36 or social services agency, or the local government administering
37 the LAMBRA, a certification that provides that a qualified
38 disadvantaged individual or qualified displaced employee meets
39 the eligibility requirements specified in subparagraph (C) of
40 paragraph (4) of subdivision (b) or subparagraph (A) of paragraph

1 (6) of subdivision (b). The Employment Development Department
2 may provide preliminary screening and referral to a certifying
3 agency. The Department of Housing and Community Development
4 shall develop regulations governing the issuance of certificates
5 pursuant to Section 7114.2 of the Government Code and shall
6 develop forms for this purpose.

7 (2) Retain a copy of the certification and provide it upon request
8 to the Franchise Tax Board.

9 (d) (1) For purposes of this section, both of the following apply:

10 (A) All employees of trades or businesses that are under
11 common control shall be treated as employed by a single employer.

12 (B) The credit (if any) allowable by this section with respect to
13 each trade or business shall be determined by reference to its
14 proportionate share of the qualified wages giving rise to the credit.

15 The regulations prescribed under this paragraph shall be based
16 on principles similar to the principles that apply in the case of
17 controlled groups of corporations as specified in subdivision (e)
18 of Section 23622.

19 (2) If an employer acquires the major portion of a trade or
20 business of another employer (hereinafter in this paragraph referred
21 to as the “predecessor”) or the major portion of a separate unit of
22 a trade or business of a predecessor, then, for purposes of applying
23 this section (other than subdivision (d)) for any calendar year
24 ending after that acquisition, the employment relationship between
25 an employee and an employer shall not be treated as terminated if
26 the employee continues to be employed in that trade or business.

27 (e) (1) (A) If the employment, other than seasonal employment,
28 of any employee, with respect to whom qualified wages are taken
29 into account under subdivision (a) is terminated by the taxpayer
30 at any time during the first 270 days of that employment (whether
31 or not consecutive) or before the close of the 270th calendar day
32 after the day in which that employee completes 90 days of
33 employment with the taxpayer, the tax imposed by this part for
34 the taxable year in which that employment is terminated shall be
35 increased by an amount (determined under those regulations) equal
36 to the credit allowed under subdivision (a) for that taxable year
37 and all prior taxable years attributable to qualified wages paid or
38 incurred with respect to that employee.

39 (B) If the seasonal employment of any qualified disadvantaged
40 individual, with respect to whom qualified wages are taken into

1 account under subdivision (a) is not continued by the qualified
2 taxpayer for a period of 270 days of employment during the
3 60-month period beginning with the day the qualified
4 disadvantaged individual commences seasonal employment with
5 the qualified taxpayer, the tax imposed by this part, for the taxable
6 year that includes the 60th month following the month in which
7 the qualified disadvantaged individual commences seasonal
8 employment with the qualified taxpayer, shall be increased by an
9 amount equal to the credit allowed under subdivision (a) for that
10 taxable year and all prior taxable years attributable to qualified
11 wages paid or incurred with respect to that qualified disadvantaged
12 individual.

13 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
14 any of the following:

15 (i) A termination of employment of an employee who voluntarily
16 leaves the employment of the taxpayer.

17 (ii) A termination of employment of an individual who, before
18 the close of the period referred to in subparagraph (A) of paragraph
19 (1), becomes disabled to perform the services of that employment,
20 unless that disability is removed before the close of that period
21 and the taxpayer fails to offer reemployment to that individual.

22 (iii) A termination of employment of an individual, if it is
23 determined that the termination was due to the misconduct (as
24 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
25 the California Code of Regulations) of that individual.

26 (iv) A termination of employment of an individual due to a
27 substantial reduction in the trade or business operations of the
28 taxpayer.

29 (v) A termination of employment of an individual, if that
30 individual is replaced by other qualified employees so as to create
31 a net increase in both the number of employees and the hours of
32 employment.

33 (B) Subparagraph (B) of paragraph (1) shall not apply to any
34 of the following:

35 (i) A failure to continue the seasonal employment of a qualified
36 disadvantaged individual who voluntarily fails to return to the
37 seasonal employment of the qualified taxpayer.

38 (ii) A failure to continue the seasonal employment of a qualified
39 disadvantaged individual who, before the close of the period
40 referred to in subparagraph (B) of paragraph (1), becomes disabled

1 and unable to perform the services of that seasonal employment,
2 unless that disability is removed before the close of that period
3 and the qualified taxpayer fails to offer seasonal employment to
4 that individual.

5 (iii) A failure to continue the seasonal employment of a qualified
6 disadvantaged individual, if it is determined that the failure to
7 continue the seasonal employment was due to the misconduct (as
8 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
9 the California Code of Regulations) of that qualified disadvantaged
10 individual.

11 (iv) A failure to continue seasonal employment of a qualified
12 disadvantaged individual due to a substantial reduction in the
13 regular seasonal trade or business operations of the qualified
14 taxpayer.

15 (v) A failure to continue the seasonal employment of a qualified
16 disadvantaged individual, if that individual is replaced by other
17 qualified displaced employees so as to create a net increase in both
18 the number of seasonal employees and the hours of seasonal
19 employment.

20 (C) For purposes of paragraph (1), the employment relationship
21 between the taxpayer and an employee shall not be treated as
22 terminated by reason of a mere change in the form of conducting
23 the trade or business of the taxpayer, if the employee continues to
24 be employed in that trade or business and the taxpayer retains a
25 substantial interest in that trade or business.

26 (3) Any increase in tax under paragraph (1) shall not be treated
27 as tax imposed by this part for purposes of determining the amount
28 of any credit allowable under this part.

29 (4) At the close of the second taxable year, if the taxpayer has
30 not increased the number of its employees as determined by
31 paragraph (5) of subdivision (b), then the amount of the credit
32 previously claimed shall be added to the taxpayer's net tax for the
33 taxpayer's second taxable year.

34 (f) In the case of an estate or trust, both of the following apply:

35 (1) The qualified wages for any taxable year shall be apportioned
36 between the estate or trust and the beneficiaries on the basis of the
37 income of the estate or trust allocable to each.

38 (2) Any beneficiary to whom any qualified wages have been
39 apportioned under paragraph (1) shall be treated (for purposes of
40 this part) as the employer with respect to those wages.

1 (g) The credit shall be reduced by the credit allowed under
2 Section 17053.7. The credit shall also be reduced by the federal
3 credit allowed under Section 51 of the Internal Revenue Code.

4 In addition, any deduction otherwise allowed under this part for
5 the wages or salaries paid or incurred by the taxpayer upon which
6 the credit is based shall be reduced by the amount of the credit,
7 prior to any reduction required by subdivision (h) or (i).

8 (h) In the case where the credit otherwise allowed under this
9 section exceeds the “net tax” for the taxable year, that portion of
10 the credit that exceeds the “net tax” may be carried over and added
11 to the credit, if any, in succeeding years, until the credit is
12 exhausted. The credit shall be applied first to the earliest taxable
13 years possible.

14 (i) (1) The amount of credit otherwise allowed under this section
15 and Section 17053.45, including prior year credit carryovers, that
16 may reduce the “net tax” for the taxable year shall not exceed the
17 amount of tax that would be imposed on the taxpayer’s business
18 income attributed to a LAMBRA determined as if that attributed
19 income represented all of the net income of the taxpayer subject
20 to tax under this part.

21 (2) Attributable income shall be that portion of the taxpayer’s
22 California source business income that is apportioned to the
23 LAMBRA. For that purpose, the taxpayer’s business income that
24 is attributable to sources in this state first shall be determined in
25 accordance with Chapter 17 (commencing with Section 25101) of
26 Part 11. That business income shall be further apportioned to the
27 LAMBRA in accordance with Article 2 (commencing with Section
28 25120) of Chapter 17 of Part 11, modified for purposes of this
29 section in accordance with paragraph (3).

30 (3) Income shall be apportioned to a LAMBRA by multiplying
31 the total California business income of the taxpayer by a fraction,
32 the numerator of which is the property factor plus the payroll factor,
33 and the denominator of which is two. For purposes of this
34 paragraph:

35 (A) The property factor is a fraction, the numerator of which is
36 the average value of the taxpayer’s real and tangible personal
37 property owned or rented and used in the LAMBRA during the
38 taxable year, and the denominator of which is the average value
39 of all the taxpayer’s real and tangible personal property owned or
40 rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “net tax” for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(k) (1) The credit authorized by this section shall not be allowed for taxable years beginning on or after January 1, 2008.

(2) On or after January 1, 2008, taxpayers that would otherwise be eligible to claim a credit authorized by this section may claim a credit for these expenses under Section 17053.76.

(3) Notwithstanding this subdivision, the provisions of ~~subdivision (d) of Section 17039 shall apply with respect to any remaining carryover of the credit previously authorized by this section.~~ *subdivision (d) of Section 17039 shall apply to allow carryover of credits previously authorized by this section to taxable years beginning on or after January 1, 2008.*

~~SEC. 3.~~

SEC. 4. Section 17053.47 of the Revenue and Taxation Code is amended to read:

17053.47. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the “net tax” (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the manufacturing enhancement area. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

1 (4) Twenty percent of the qualified wages in the fourth year of
2 employment.

3 (5) Ten percent of the qualified wages in the fifth year of
4 employment.

5 (b) For purposes of this section:

6 (1) “Qualified wages” means:

7 (A) That portion of wages paid or incurred by the qualified
8 taxpayer during the taxable year to qualified disadvantaged
9 individuals that does not exceed 150 percent of the minimum wage.

10 (B) The total amount of qualified wages which may be taken
11 into account for purposes of claiming the credit allowed under this
12 section shall not exceed two million dollars (\$2,000,000) per
13 taxable year.

14 (C) Wages received during the 60-month period beginning with
15 the first day the qualified disadvantaged individual commences
16 employment with the qualified taxpayer. Reemployment in
17 connection with any increase, including a regularly occurring
18 seasonal increase, in the trade or business operations of the taxpayer
19 does not constitute commencement of employment for purposes
20 of this section.

21 (D) Qualified wages do not include any wages paid or incurred
22 by the qualified taxpayer on or after the manufacturing
23 enhancement area expiration date. However, wages paid or incurred
24 with respect to qualified employees who are employed by the
25 qualified taxpayer within the manufacturing enhancement area
26 within the 60-month period prior to the manufacturing enhancement
27 area expiration date shall continue to qualify for the credit under
28 this section after the manufacturing enhancement area expiration
29 date, in accordance with all provisions of this section applied as
30 if the manufacturing enhancement area designation were still in
31 existence and binding.

32 (2) “Minimum wage” means the wage established by the
33 Industrial Welfare Commission as provided for in Chapter 1
34 (commencing with Section 1171) of Part 4 of Division 2 of the
35 Labor Code.

36 (3) “Manufacturing enhancement area” means an area designated
37 pursuant to Section 7073.8 of the Government Code according to
38 the procedures of Chapter 12.8 (commencing with Section 7070)
39 of Division 7 of Title 1 of the Government Code.

1 (4) “Manufacturing enhancement area expiration date” means
2 the date the manufacturing enhancement area designation expires,
3 is no longer binding, or becomes inoperative.

4 (5) “Qualified disadvantaged individual” means an individual
5 who satisfies all of the following requirements:

6 (A) (i) At least 90 percent of whose services for the qualified
7 taxpayer during the taxable year are directly related to the conduct
8 of the qualified taxpayer’s trade or business located in a
9 manufacturing enhancement area.

10 (ii) Who performs at least 50 percent of his or her services for
11 the qualified taxpayer during the taxable year in the manufacturing
12 enhancement area.

13 (B) Who is hired by the qualified taxpayer after the designation
14 of the area as a manufacturing enhancement area in which the
15 individual’s services were primarily performed.

16 (C) Who is any of the following immediately preceding the
17 individual’s commencement of employment with the qualified
18 taxpayer:

19 (i) An individual who has been determined eligible for services
20 under the federal Job Training Partnership Act (29 U.S.C. Sec.
21 1501 et seq.), or its successor.

22 (ii) Any voluntary or mandatory registrant under the Greater
23 Avenues for Independence Act of 1985, or its successor, as
24 provided pursuant to Article 3.2 (commencing with Section 11320)
25 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
26 Code.

27 (iii) Any individual who has been certified eligible by the
28 Employment Development Department under the federal Targeted
29 Jobs Tax Credit Program, or its successor, whether or not this
30 program is in effect.

31 (6) “Qualified taxpayer” means any taxpayer engaged in a trade
32 or business within a manufacturing enhancement area designated
33 pursuant to Section 7073.8 of the Government Code and who meets
34 all of the following requirements:

35 (A) Is engaged in those lines of business described in Codes
36 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
37 inclusive, of the Standard Industrial Classification (SIC) Manual
38 published by the United States Office of Management and Budget,
39 1987 edition.

1 (B) At least 50 percent of the qualified taxpayer's workforce
2 hired after the designation of the manufacturing enhancement area
3 is composed of individuals who, at the time of hire, are residents
4 of the county in which the manufacturing enhancement area is
5 located.

6 (C) Of this percentage of local hires, at least 30 percent shall
7 be qualified disadvantaged individuals.

8 (7) "Seasonal employment" means employment by a qualified
9 taxpayer that has regular and predictable substantial reductions in
10 trade or business operations.

11 (c) (1) For purposes of this section, all of the following apply:

12 (A) All employees of trades or businesses that are under
13 common control shall be treated as employed by a single qualified
14 taxpayer.

15 (B) The credit (if any) allowable by this section with respect to
16 each trade or business shall be determined by reference to its
17 proportionate share of the expense of the qualified wages giving
18 rise to the credit and shall be allocated in that manner.

19 (C) Principles that apply in the case of controlled groups of
20 corporations, as specified in subdivision (d) of Section 23622.7,
21 shall apply with respect to determining employment.

22 (2) If a qualified taxpayer acquires the major portion of a trade
23 or business of another employer (hereinafter in this paragraph
24 referred to as the "predecessor") or the major portion of a separate
25 unit of a trade or business of a predecessor, then, for purposes of
26 applying this section (other than subdivision (d)) for any calendar
27 year ending after that acquisition, the employment relationship
28 between a qualified disadvantaged individual and a qualified
29 taxpayer shall not be treated as terminated if the qualified
30 disadvantaged individual continues to be employed in that trade
31 or business.

32 (d) (1) (A) If the employment, other than seasonal employment,
33 of any qualified disadvantaged individual, with respect to whom
34 qualified wages are taken into account under subdivision (b) is
35 terminated by the qualified taxpayer at any time during the first
36 270 days of that employment (whether or not consecutive) or before
37 the close of the 270th calendar day after the day in which that
38 qualified disadvantaged individual completes 90 days of
39 employment with the qualified taxpayer, the tax imposed by this
40 part for the taxable year in which that employment is terminated

1 shall be increased by an amount equal to the credit allowed under
2 subdivision (a) for that taxable year and all prior taxable years
3 attributable to qualified wages paid or incurred with respect to that
4 qualified disadvantaged individual.

5 (B) If the seasonal employment of any qualified disadvantaged
6 individual, with respect to whom qualified wages are taken into
7 account under subdivision (a) is not continued by the qualified
8 taxpayer for a period of 270 days of employment during the
9 60-month period beginning with the day the qualified
10 disadvantaged individual commences seasonal employment with
11 the qualified taxpayer, the tax imposed by this part, for the taxable
12 year that includes the 60th month following the month in which
13 the qualified disadvantaged individual commences seasonal
14 employment with the qualified taxpayer, shall be increased by an
15 amount equal to the credit allowed under subdivision (a) for that
16 taxable year and all prior taxable years attributable to qualified
17 wages paid or incurred with respect to that qualified disadvantaged
18 individual.

19 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
20 any of the following:

21 (i) A termination of employment of a qualified disadvantaged
22 individual who voluntarily leaves the employment of the qualified
23 taxpayer.

24 (ii) A termination of employment of a qualified disadvantaged
25 individual who, before the close of the period referred to in
26 subparagraph (A) of paragraph (1), becomes disabled to perform
27 the services of that employment, unless that disability is removed
28 before the close of that period and the taxpayer fails to offer
29 reemployment to that individual.

30 (iii) A termination of employment of a qualified disadvantaged
31 individual, if it is determined that the termination was due to the
32 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
33 of Title 22 of the California Code of Regulations) of that individual.

34 (iv) A termination of employment of a qualified disadvantaged
35 individual due to a substantial reduction in the trade or business
36 operations of the qualified taxpayer.

37 (v) A termination of employment of a qualified disadvantaged
38 individual, if that individual is replaced by other qualified
39 disadvantaged individuals so as to create a net increase in both the
40 number of employees and the hours of employment.

1 (B) Subparagraph (B) of paragraph (1) shall not apply to any
2 of the following:

3 (i) A failure to continue the seasonal employment of a qualified
4 disadvantaged individual who voluntarily fails to return to the
5 seasonal employment of the qualified taxpayer.

6 (ii) A failure to continue the seasonal employment of a qualified
7 disadvantaged individual who, before the close of the period
8 referred to in subparagraph (B) of paragraph (1), becomes disabled
9 and unable to perform the services of that seasonal employment,
10 unless that disability is removed before the close of that period
11 and the qualified taxpayer fails to offer seasonal employment to
12 that qualified disadvantaged individual.

13 (iii) A failure to continue the seasonal employment of a qualified
14 disadvantaged individual, if it is determined that the failure to
15 continue the seasonal employment was due to the misconduct (as
16 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
17 the California Code of Regulations) of that qualified disadvantaged
18 individual.

19 (iv) A failure to continue seasonal employment of a qualified
20 disadvantaged individual due to a substantial reduction in the
21 regular seasonal trade or business operations of the qualified
22 taxpayer.

23 (v) A failure to continue the seasonal employment of a qualified
24 disadvantaged individual, if that qualified disadvantaged individual
25 is replaced by other qualified disadvantaged individuals so as to
26 create a net increase in both the number of seasonal employees
27 and the hours of seasonal employment.

28 (C) For purposes of paragraph (1), the employment relationship
29 between the qualified taxpayer and a qualified disadvantaged
30 individual shall not be treated as terminated by reason of a mere
31 change in the form of conducting the trade or business of the
32 qualified taxpayer, if the qualified disadvantaged individual
33 continues to be employed in that trade or business and the qualified
34 taxpayer retains a substantial interest in that trade or business.

35 (3) Any increase in tax under paragraph (1) shall not be treated
36 as tax imposed by this part for purposes of determining the amount
37 of any credit allowable under this part.

38 (e) In the case of an estate or trust, both of the following apply:

1 (1) The qualified wages for any taxable year shall be apportioned
2 between the estate or trust and the beneficiaries on the basis of the
3 income of the estate or trust allocable to each.

4 (2) Any beneficiary to whom any qualified wages have been
5 apportioned under paragraph (1) shall be treated (for purposes of
6 this part) as the employer with respect to those wages.

7 (f) The credit shall be reduced by the credit allowed under
8 Section 17053.7. The credit shall also be reduced by the federal
9 credit allowed under Section 51 of the Internal Revenue Code.

10 In addition, any deduction otherwise allowed under this part for
11 the wages or salaries paid or incurred by the qualified taxpayer
12 upon which the credit is based shall be reduced by the amount of
13 the credit, prior to any reduction required by subdivision (g) or
14 (h).

15 (g) In the case where the credit otherwise allowed under this
16 section exceeds the “net tax” for the taxable year, that portion of
17 the credit that exceeds the “net tax” may be carried over and added
18 to the credit, if any, in succeeding years, until the credit is
19 exhausted. The credit shall be applied first to the earliest taxable
20 years possible.

21 (h) (1) The amount of credit otherwise allowed under this
22 section, including prior year credit carryovers, that may reduce
23 the “net tax” for the taxable year shall not exceed the amount of
24 tax that would be imposed on the qualified taxpayer’s business
25 income attributed to a manufacturing enhancement area determined
26 as if that attributed income represented all of the net income of the
27 qualified taxpayer subject to tax under this part.

28 (2) Attributable income shall be that portion of the taxpayer’s
29 California source business income that is apportioned to the
30 manufacturing enhancement area. For that purpose, the taxpayer’s
31 business income that is attributable to sources in this state first
32 shall be determined in accordance with Chapter 17 (commencing
33 with Section 25101) of Part 11. That business income shall be
34 further apportioned to the manufacturing enhancement area in
35 accordance with Article 2 (commencing with Section 25120) of
36 Chapter 17 of Part 11, modified for purposes of this section in
37 accordance with paragraph (3).

38 (3) Income shall be apportioned to a manufacturing enhancement
39 area by multiplying the total California business income of the
40 taxpayer by a fraction, the numerator of which is the property

1 factor plus the payroll factor, and the denominator of which is two.
2 For purposes of this paragraph:

3 (A) The property factor is a fraction, the numerator of which is
4 the average value of the taxpayer's real and tangible personal
5 property owned or rented and used in the manufacturing
6 enhancement area during the taxable year, and the denominator
7 of which is the average value of all the taxpayer's real and tangible
8 personal property owned or rented and used in this state during
9 the taxable year.

10 (B) The payroll factor is a fraction, the numerator of which is
11 the total amount paid by the taxpayer in the manufacturing
12 enhancement area during the taxable year for compensation, and
13 the denominator of which is the total compensation paid by the
14 taxpayer in this state during the taxable year.

15 (4) The portion of any credit remaining, if any, after application
16 of this subdivision, shall be carried over to succeeding taxable
17 years, as if it were an amount exceeding the "net tax" for the
18 taxable year, as provided in subdivision (g).

19 (i) If the taxpayer is allowed a credit pursuant to this section for
20 qualified wages paid or incurred, only one credit shall be allowed
21 to the taxpayer under this part with respect to any wage consisting
22 in whole or in part of those qualified wages.

23 (j) The qualified taxpayer shall do both of the following:

24 (1) Obtain from the Employment Development Department, as
25 permitted by federal law, the local county or city Job Training
26 Partnership Act administrative entity, the local county GAIN office
27 or social services agency, or the local government administering
28 the manufacturing enhancement area, a certification that provides
29 that a qualified disadvantaged individual meets the eligibility
30 requirements specified in paragraph (5) of subdivision (b). The
31 Employment Development Department may provide preliminary
32 screening and referral to a certifying agency. The Department of
33 Housing and Community Development shall develop regulations
34 governing the issuance of certificates pursuant to subdivision (d)
35 of Section 7086 of the Government Code and shall develop forms
36 for this purpose.

37 (2) Retain a copy of the certification and provide it upon request
38 to the Franchise Tax Board.

39 (k) (1) The credit authorized by this section shall not be allowed
40 for taxable years beginning on or after January 1, 2008.

(2) On or after January 1, 2008, taxpayers that would otherwise be eligible to claim a credit authorized by this section may claim a credit for these expenses under Section 17053.76.

(3) Notwithstanding this subdivision, the provisions of ~~subdivision (d) of Section 17039 shall apply with respect to any remaining carryover of the credit previously authorized by this section.~~ *subdivision (d) of Section 17039 shall apply to allow carryover of credits previously authorized by this section to taxable years beginning on or after January 1, 2008.*

~~SEC. 4.~~

SEC. 5. Section 17053.74 of the Revenue and Taxation Code is amended to read:

17053.74. (a) There shall be allowed a credit against the “net tax” (as defined in Section 17039) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) “Qualified wages” means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes 3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, “qualified wages” means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

1 (B) Wages received during the 60-month period beginning with
2 the first day the employee commences employment with the
3 taxpayer. Reemployment in connection with any increase, including
4 a regularly occurring seasonal increase, in the trade or business
5 operations of the taxpayer does not constitute commencement of
6 employment for purposes of this section.

7 (C) Qualified wages do not include any wages paid or incurred
8 by the taxpayer on or after the zone expiration date. However,
9 wages paid or incurred with respect to qualified employees who
10 are employed by the taxpayer within the enterprise zone within
11 the 60-month period prior to the zone expiration date shall continue
12 to qualify for the credit under this section after the zone expiration
13 date, in accordance with all provisions of this section applied as
14 if the enterprise zone designation were still in existence and
15 binding.

16 (2) “Minimum wage” means the wage established by the
17 Industrial Welfare Commission as provided for in Chapter 1
18 (commencing with Section 1171) of Part 4 of Division 2 of the
19 Labor Code.

20 (3) “Zone expiration date” means the date the enterprise zone
21 designation expires, is no longer binding, or becomes inoperative.

22 (4) (A) “Qualified employee” means an individual who meets
23 all of the following requirements:

24 (i) At least 90 percent of whose services for the taxpayer during
25 the taxable year are directly related to the conduct of the taxpayer’s
26 trade or business located in an enterprise zone.

27 (ii) Performs at least 50 percent of his or her services for the
28 taxpayer during the taxable year in an enterprise zone.

29 (iii) Is hired by the taxpayer after the date of original designation
30 of the area in which services were performed as an enterprise zone.

31 (iv) Is any of the following:

32 (I) Immediately preceding the qualified employee’s
33 commencement of employment with the taxpayer, was a person
34 eligible for services under the federal Job Training Partnership
35 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
36 or is eligible to receive, subsidized employment, training, or
37 services funded by the federal Job Training Partnership Act, or its
38 successor.

39 (II) Immediately preceding the qualified employee’s
40 commencement of employment with the taxpayer, was a person

1 eligible to be a voluntary or mandatory registrant under the Greater
2 Avenues for Independence Act of 1985 (GAIN) provided for
3 pursuant to Article 3.2 (commencing with Section 11320) of
4 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
5 Code, or its successor.

6 (III) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was an
8 economically disadvantaged individual 14 years of age or older.

9 (IV) Immediately preceding the qualified employee's
10 commencement of employment with the taxpayer, was a dislocated
11 worker who meets any of the following:

12 ~~(aa)~~

13 *(ia)* Has been terminated or laid off or who has received a notice
14 of termination or layoff from employment, is eligible for or has
15 exhausted entitlement to unemployment insurance benefits, and
16 is unlikely to return to his or her previous industry or occupation.

17 ~~(bb)~~

18 *(ib)* Has been terminated or has received a notice of termination
19 of employment as a result of any permanent closure or any
20 substantial layoff at a plant, facility, or enterprise, including an
21 individual who has not received written notification but whose
22 employer has made a public announcement of the closure or layoff.

23 ~~(cc)~~

24 *(ic)* Is long-term unemployed and has limited opportunities for
25 employment or reemployment in the same or a similar occupation
26 in the area in which the individual resides, including an individual
27 55 years of age or older who may have substantial barriers to
28 employment by reason of age.

29 ~~(dd)~~

30 *(id)* Was self-employed (including farmers and ranchers) and
31 is unemployed as a result of general economic conditions in the
32 community in which he or she resides or because of natural
33 disasters.

34 ~~(ee)~~

35 *(ie)* Was a civilian employee of the Department of Defense
36 employed at a military installation being closed or realigned under
37 the Defense Base Closure and Realignment Act of 1990.

38 ~~(ff)~~

1 ~~(if)~~ Was an active member of the armed forces or National Guard
2 as of September 30, 1990, and was either involuntarily separated
3 or separated pursuant to a special benefits program.

4 ~~(gg)~~
5 ~~(ig)~~ Is a seasonal or migrant worker who experiences chronic
6 seasonal unemployment and underemployment in the agriculture
7 industry, aggravated by continual advancements in technology and
8 mechanization.

9 ~~(hh)~~
10 ~~(ih)~~ Has been terminated or laid off, or has received a notice of
11 termination or layoff, as a consequence of compliance with the
12 Clean Air Act.

13 (V) Immediately preceding the qualified employee's
14 commencement of employment with the taxpayer, was a disabled
15 individual who is eligible for or enrolled in, or has completed a
16 state rehabilitation plan or is a service-connected disabled veteran,
17 veteran of the Vietnam era, or veteran who is recently separated
18 from military service.

19 (VI) Immediately preceding the qualified employee's
20 commencement of employment with the taxpayer, was an
21 ex-offender. An individual shall be treated as convicted if he or
22 she was placed on probation by a state court without a finding of
23 guilt.

24 (VII) Immediately preceding the qualified employee's
25 commencement of employment with the taxpayer, was a person
26 eligible for or a recipient of any of the following:

27 ~~(aa)~~
28 ~~(ia)~~ Federal Supplemental Security Income benefits.

29 ~~(bb)~~
30 ~~(ib)~~ Aid to Families with Dependent Children.

31 ~~(cc)~~
32 ~~(ic)~~ Food stamps.

33 ~~(dd)~~
34 ~~(id)~~ State and local general assistance.

35 (VIII) Immediately preceding the qualified employee's
36 commencement of employment with the taxpayer, was a member
37 of a federally recognized Indian tribe, band, or other group of
38 Native American descent.

39 (IX) Immediately preceding the qualified employee's
40 commencement of employment with the taxpayer, was a resident

1 of a targeted employment area, as defined in Section 7072 of the
2 Government Code.

3 (X) An employee who qualified the taxpayer for the enterprise
4 zone hiring credit under former Section 17053.8 or the program
5 area hiring credit under former Section 17053.11.

6 (XI) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was a member
8 of a targeted group, as defined in Section 51(d) of the Internal
9 Revenue Code, or its successor.

10 (B) Priority for employment shall be provided to an individual
11 who is enrolled in a qualified program under the federal Job
12 Training Partnership Act or the Greater Avenues for Independence
13 Act of 1985 or who is eligible as a member of a targeted group
14 under the Work Opportunity Tax Credit (Section 51 of the Internal
15 Revenue Code), or its successor.

16 (5) "Taxpayer" means a person or entity engaged in a trade or
17 business within an enterprise zone designated pursuant to Chapter
18 12.8 (commencing with Section 7070) of the Government Code.

19 (6) "Seasonal employment" means employment by a taxpayer
20 that has regular and predictable substantial reductions in trade or
21 business operations.

22 (c) The taxpayer shall do both of the following:

23 (1) Obtain from the Employment Development Department, as
24 permitted by federal law, the local county or city Job Training
25 Partnership Act administrative entity, the local county GAIN office
26 or social services agency, or the local government administering
27 the enterprise zone, a certification which provides that a qualified
28 employee meets the eligibility requirements specified in clause
29 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
30 Employment Development Department may provide preliminary
31 screening and referral to a certifying agency. The Employment
32 Development Department shall develop a form for this purpose.
33 The Department of Housing and Community Development shall
34 develop regulations governing the issuance of certificates by local
35 governments pursuant to subdivision (a) of Section 7086 of the
36 Government Code.

37 (2) Retain a copy of the certification and provide it upon request
38 to the Franchise Tax Board.

39 (d) (1) For purposes of this section:

1 (A) All employees of trades or businesses, which are not
2 incorporated, that are under common control shall be treated as
3 employed by a single taxpayer.

4 (B) The credit, if any, allowable by this section with respect to
5 each trade or business shall be determined by reference to its
6 proportionate share of the expense of the qualified wages giving
7 rise to the credit, and shall be allocated in that manner.

8 (C) Principles that apply in the case of controlled groups of
9 corporations, as specified in subdivision (d) of Section 23622.7,
10 shall apply with respect to determining employment.

11 (2) If an employer acquires the major portion of a trade or
12 business of another employer (hereinafter in this paragraph referred
13 to as the “predecessor”) or the major portion of a separate unit of
14 a trade or business of a predecessor, then, for purposes of applying
15 this section (other than subdivision (e)) for any calendar year
16 ending after that acquisition, the employment relationship between
17 a qualified employee and an employer shall not be treated as
18 terminated if the employee continues to be employed in that trade
19 or business.

20 (e) (1) (A) If the employment, other than seasonal employment,
21 of any qualified employee, with respect to whom qualified wages
22 are taken into account under subdivision (a) is terminated by the
23 taxpayer at any time during the first 270 days of that employment
24 (whether or not consecutive) or before the close of the 270th
25 calendar day after the day in which that employee completes 90
26 days of employment with the taxpayer, the tax imposed by this
27 part for the taxable year in which that employment is terminated
28 shall be increased by an amount equal to the credit allowed under
29 subdivision (a) for that taxable year and all prior taxable years
30 attributable to qualified wages paid or incurred with respect to that
31 employee.

32 (B) If the seasonal employment of any qualified employee, with
33 respect to whom qualified wages are taken into account under
34 subdivision (a) is not continued by the taxpayer for a period of
35 270 days of employment during the 60-month period beginning
36 with the day the qualified employee commences seasonal
37 employment with the taxpayer, the tax imposed by this part, for
38 the taxable year that includes the 60th month following the month
39 in which the qualified employee commences seasonal employment
40 with the taxpayer, shall be increased by an amount equal to the

1 credit allowed under subdivision (a) for that taxable year and all
2 prior taxable years attributable to qualified wages paid or incurred
3 with respect to that qualified employee.

4 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
5 any of the following:

6 (i) A termination of employment of a qualified employee who
7 voluntarily leaves the employment of the taxpayer.

8 (ii) A termination of employment of a qualified employee who,
9 before the close of the period referred to in paragraph (1), becomes
10 disabled and unable to perform the services of that employment,
11 unless that disability is removed before the close of that period
12 and the taxpayer fails to offer reemployment to that employee.

13 (iii) A termination of employment of a qualified employee, if
14 it is determined that the termination was due to the misconduct (as
15 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
16 the California Code of Regulations) of that employee.

17 (iv) A termination of employment of a qualified employee due
18 to a substantial reduction in the trade or business operations of the
19 taxpayer.

20 (v) A termination of employment of a qualified employee, if
21 that employee is replaced by other qualified employees so as to
22 create a net increase in both the number of employees and the
23 hours of employment.

24 (B) Subparagraph (B) of paragraph (1) shall not apply to any
25 of the following:

26 (i) A failure to continue the seasonal employment of a qualified
27 employee who voluntarily fails to return to the seasonal
28 employment of the taxpayer.

29 (ii) A failure to continue the seasonal employment of a qualified
30 employee who, before the close of the period referred to in
31 subparagraph (B) of paragraph (1), becomes disabled and unable
32 to perform the services of that seasonal employment, unless that
33 disability is removed before the close of that period and the
34 taxpayer fails to offer seasonal employment to that qualified
35 employee.

36 (iii) A failure to continue the seasonal employment of a qualified
37 employee, if it is determined that the failure to continue the
38 seasonal employment was due to the misconduct (as defined in
39 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
40 Code of Regulations) of that qualified employee.

1 (iv) A failure to continue seasonal employment of a qualified
2 employee due to a substantial reduction in the regular seasonal
3 trade or business operations of the taxpayer.

4 (v) A failure to continue the seasonal employment of a qualified
5 employee, if that qualified employee is replaced by other qualified
6 employees so as to create a net increase in both the number of
7 seasonal employees and the hours of seasonal employment.

8 (C) For purposes of paragraph (1), the employment relationship
9 between the taxpayer and a qualified employee shall not be treated
10 as terminated by reason of a mere change in the form of conducting
11 the trade or business of the taxpayer, if the qualified employee
12 continues to be employed in that trade or business and the taxpayer
13 retains a substantial interest in that trade or business.

14 (3) Any increase in tax under paragraph (1) shall not be treated
15 as tax imposed by this part for purposes of determining the amount
16 of any credit allowable under this part.

17 (f) In the case of an estate or trust, both of the following apply:

18 (1) The qualified wages for any taxable year shall be apportioned
19 between the estate or trust and the beneficiaries on the basis of the
20 income of the estate or trust allocable to each.

21 (2) Any beneficiary to whom any qualified wages have been
22 apportioned under paragraph (1) shall be treated, for purposes of
23 this part, as the employer with respect to those wages.

24 (g) For purposes of this section, “enterprise zone” means an
25 area designated as an enterprise zone pursuant to Chapter 12.8
26 (commencing with Section 7070) of Division 7 of Title 1 of the
27 Government Code.

28 (h) The credit allowable under this section shall be reduced by
29 the credit allowed under Sections 17053.10, 17053.17 and 17053.46
30 claimed for the same employee. The credit shall also be reduced
31 by the federal credit allowed under Section 51 of the Internal
32 Revenue Code.

33 In addition, any deduction otherwise allowed under this part for
34 the wages or salaries paid or incurred by the taxpayer upon which
35 the credit is based shall be reduced by the amount of the credit,
36 prior to any reduction required by subdivision (i) or (j).

37 (i) In the case where the credit otherwise allowed under this
38 section exceeds the “net tax” for the taxable year, that portion of
39 the credit that exceeds the “net tax” may be carried over and added
40 to the credit, if any, in succeeding taxable years, until the credit is

1 exhausted. The credit shall be applied first to the earliest taxable
2 years possible.

3 (j) (1) The amount of the credit otherwise allowed under this
4 section and Section 17053.70, including any credit carryover from
5 prior years, that may reduce the “net tax” for the taxable year shall
6 not exceed the amount of tax which would be imposed on the
7 taxpayer’s business income attributable to the enterprise zone
8 determined as if that attributable income represented all of the
9 income of the taxpayer subject to tax under this part.

10 (2) Attributable income shall be that portion of the taxpayer’s
11 California source business income that is apportioned to the
12 enterprise zone. For that purpose, the taxpayer’s business income
13 attributable to sources in this state first shall be determined in
14 accordance with Chapter 17 (commencing with Section 25101) of
15 Part 11. That business income shall be further apportioned to the
16 enterprise zone in accordance with Article 2 (commencing with
17 Section 25120) of Chapter 17 of Part 11, modified for purposes
18 of this section in accordance with paragraph (3).

19 (3) Business income shall be apportioned to the enterprise zone
20 by multiplying the total California business income of the taxpayer
21 by a fraction, the numerator of which is the property factor plus
22 the payroll factor, and the denominator of which is two. For
23 purposes of this paragraph:

24 (A) The property factor is a fraction, the numerator of which is
25 the average value of the taxpayer’s real and tangible personal
26 property owned or rented and used in the enterprise zone during
27 the taxable year, and the denominator of which is the average value
28 of all the taxpayer’s real and tangible personal property owned or
29 rented and used in this state during the taxable year.

30 (B) The payroll factor is a fraction, the numerator of which is
31 the total amount paid by the taxpayer in the enterprise zone during
32 the taxable year for compensation, and the denominator of which
33 is the total compensation paid by the taxpayer in this state during
34 the taxable year.

35 (4) The portion of any credit remaining, if any, after application
36 of this subdivision, shall be carried over to succeeding taxable
37 years, as if it were an amount exceeding the “net tax” for the
38 taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1997.

(l) (1) The credit authorized by this section shall not be allowed for taxable years beginning on or after January 1, 2008.

(2) On or after January 1, 2008, taxpayers that would otherwise be eligible to claim a credit authorized by this section may claim a credit for these expenses under Section 17053.76.

(3) Notwithstanding this subdivision, the provisions of ~~subdivision (d) of Section 17039 shall apply with respect to any remaining carryover of the credit previously authorized by this section.~~ *subdivision (d) of Section 17039 shall apply to allow carryover of credits previously authorized by this section to taxable years beginning on or after January 1, 2008.*

~~SEC. 5.~~

SEC. 6. Section 17053.76 is added to the Revenue and Taxation Code, to read:

17053.76. (a) For each taxable year beginning on or after January 1, 2008, there shall be allowed a credit against the “net tax,” as defined in Section 17039, to a qualified taxpayer who employs a qualified employee in a geographically targeted economic development area during the taxable year. The credit shall be equal to the sum of each of the following:

(1) ~~Fifty~~ *Forty-nine* percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section, all of the following definitions apply:

(1) “Geographically targeted economic development area” means any of the following:

(A) An enterprise zone designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

1 (B) A local agency military base recovery area designated as a
2 local agency military base recovery area pursuant to Chapter 12.97
3 (commencing with Section 7105).

4 (C) A targeted tax area designated as a targeted tax area pursuant
5 to Chapter 12.93 (commencing with Section 7097).

6 (D) A manufacturing enhancement area designated as a
7 manufacturing enhancement area pursuant to Chapter 12.8
8 (commencing with Section 7073.8).

9 (2) “Geographically targeted economic development area
10 expiration date” means the date the geographically targeted
11 economic development area designation expires, is no longer
12 binding, or becomes inoperative.

13 (3) “Minimum wage” means the wage established by the
14 Industrial Welfare Commission as provided for in Chapter 1
15 (commencing with Section 1171) of Part 4 of Division 2 of the
16 Labor Code.

17 (4) (A) “Qualified employee” means an individual who meets
18 all of the following requirements:

19 (i) At least 90 percent of whose services for the qualified
20 taxpayer during the taxable year are directly related to the conduct
21 of the qualified taxpayer’s trade or business located in a
22 geographically targeted economic development area.

23 (ii) Performs at least 50 percent of his or her services for the
24 qualified taxpayer during the taxable year in a geographically
25 targeted economic development area.

26 (iii) Is initially hired by the qualified taxpayer after the date of
27 original designation of the area in which services were performed
28 as a geographically targeted economic development area.

29 (iv) Is any of the following, as documented by the
30 geographically targeted economic development area coordinator:

31 (I) Immediately preceding the qualified employee’s
32 commencement of employment with the qualified taxpayer, was
33 a person eligible for services under the federal Job Training
34 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
35 who is receiving, or is eligible to receive, subsidized employment,
36 training, or services funded by the federal Job Training Partnership
37 Act, or its successor.

38 (II) Immediately preceding the qualified employee’s
39 commencement of employment with the qualified taxpayer, was
40 a person eligible to be a voluntary or mandatory registrant under

1 the Greater Avenues for Independence Act of 1985 (GAIN)
2 program provided for pursuant to Article 3.2 (commencing with
3 Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare
4 and Institutions Code, or its successor.

5 (III) Immediately preceding the qualified employee's
6 commencement of employment with the qualified taxpayer, was
7 an economically disadvantaged individual 16 years of age or older.
8 For purposes of this section, "economically disadvantaged
9 individual" means an individual who meets the definition of that
10 term under the Workforce Investment Act, or its successor.

11 (IV) Immediately preceding the qualified employee's
12 commencement of employment with the qualified taxpayer, was
13 a dislocated worker who meets any of the following requirements:

14 ~~(aa)~~

15 *(ia)* Has been terminated or laid off or who has received a notice
16 of termination of layoff from employment, is eligible for or has
17 exhausted entitlement to unemployment insurance benefits, and
18 is unlikely to return to his or her previous industry or occupation.

19 ~~(bb)~~

20 *(ib)* Has been terminated or has received a notice of termination
21 of employment as a result of any permanent closure or any
22 substantial layoff at a plant, facility, or enterprise, including an
23 individual who has not received written notification but whose
24 employer has made a public announcement of the closure or layoff.

25 ~~(ee)~~

26 *(ic)* Is long-term unemployed and has limited opportunities for
27 employment or reemployment in the same or a similar occupation
28 in the area in which the individual resides, including an individual
29 55 years of age or older who may have substantial barriers to
30 employment by reason of age.

31 ~~(dd)~~

32 *(id)* Was self-employed (including farmers and ranchers) and
33 is unemployed as a result of general economic conditions in the
34 community in which he or she resides or because of natural
35 disasters.

36 ~~(ee)~~

37 *(ie)* Was a civilian employee of the Department of Defense
38 employed at a military installation being closed or realigned under
39 the Defense Base Closure and Realignment Act of 1990.

40 ~~(ff)~~

1 ~~(if)~~ Was an active member of the Armed Forces or National
2 Guard as of September 30, 1990, and was either involuntarily
3 separated or separated pursuant to a special benefits program.

4 ~~(gg)~~

5 ~~(ig)~~ Is a seasonal or migrant worker who experiences chronic
6 seasonal unemployment and underemployment in the agriculture
7 industry, aggravated by continual advancements in technology and
8 mechanization.

9 ~~(hh)~~

10 ~~(ih)~~ Has been terminated or laid off, or has received a notice of
11 termination or layoff, as a consequence of compliance with the
12 Clean Air Act.

13 (V) Immediately preceding the qualified employee's
14 commencement of employment with the qualified taxpayer, was
15 a disabled individual who is eligible for or enrolled in, or has
16 completed a state rehabilitation plan.

17 (VI) Is an individual who was discharged or released from
18 service under conditions other than dishonorable, and is any of the
19 following:

20 ~~(aa)~~

21 ~~(ia)~~ A service-connected disabled veteran.

22 ~~(bb)~~

23 ~~(ib)~~ An individual who was discharged or released in the last
24 48 months from active military, naval, or an air service.

25 ~~(ee)~~

26 ~~(ic)~~ An individual who served in the active military, naval, or
27 air service of the United States between February 28, 1961, and
28 May 8, 1975.

29 ~~(dd)~~

30 ~~(id)~~ An individual who was discharged or released in the last
31 48 months from active service in the National Guard if the
32 individual served on foreign soil prior to discharge.

33 (VII) Is an individual who has been convicted of a felony or a
34 misdemeanor offense punishable by incarceration, or a person
35 charged with a felony offense or a misdemeanor offense punishable
36 by incarceration but placed on probation by a state court without
37 a finding of guilt.

38 ~~(VIII)~~ Is an individual who is a former member of a criminal
39 street gang, certified as such by a federal, state, or local law
40 enforcement agency.

~~(IX)~~

(VIII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for, or a recipient of, any of the following:

~~(aa)~~

(ia) Federal Supplemental Security Income benefits.

~~(bb)~~

(ib) Temporary Assistance for Needy Families.

~~(ee)~~

(ic) Food stamps.

~~(dd)~~

(id) State and local general assistance.

~~(X)~~

(IX) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

~~(XI)~~

(X) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a resident of a targeted employment area, as defined in Section 7072 of the Government Code.

~~(XH)~~

(XI) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer located in a targeted tax area, was a resident of that targeted tax area.

~~(XHH)~~

(XII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) (i) Priority for employment shall be provided to any of the following individuals:

(I) An individual who is enrolled in a qualified program under the federal Workforce Investment Act, or its successor.

(II) An individual who is enrolled in the California Work Opportunity and Responsibility to Kids program, or its successor.

(III) An individual who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(ii) On or before December 15 of each calendar year, the Employment Development Department shall report to the Legislature regarding the following information:

(I) Types of training and services that the department provided, in the previous fiscal year, to the individuals enrolled and documented in the California Job Training Automation System and in the California Work Opportunity and Responsibility to Kids Program.

(II) Number of individuals enrolled in the California Job Training Automation System and in the California Work Opportunity and Responsibility to Kids Program who, in the previous fiscal year, were referred by the Employment Development Department to the geographically targeted economic development area programs for employment.

(5) “Qualified wages” means the following:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the qualified taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described as industrial activities in the North American Industry Classification System Manual, published by the United States Office of Management and Budget, “qualified wages” means that portion of hourly wages that does not exceed 202 percent of the minimum wage. The Employment Development Department shall determine which classifications apply and annually publish those classifications on the Employment Development Department’s Web site.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the expiration date of the geographically targeted economic development area. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the geographically

1 targeted economic development area within the 60-month period
2 prior to the zone expiration date shall continue to qualify for the
3 credit under this section after the expiration date of the
4 geographically targeted economic development area, in accordance
5 with all provisions of this section applied as if the geographically
6 targeted economic development area designation were still in
7 existence and binding.

8 (6) “Seasonal employment” means employment by a qualified
9 taxpayer that has regular and predictable substantial reductions in
10 trade or business operations.

11 (7) “Qualified taxpayer” means a taxpayer that meets any of
12 the following requirements:

13 (A) Is a person or entity engaged in a trade or business within
14 an enterprise zone designated pursuant to Chapter 12.8
15 (commencing with Section 7070) of Division 7 of Title 1 of the
16 Government Code.

17 (B) Is a person or entity engaged in a trade or business within
18 a local agency military base recovery area designated pursuant to
19 Chapter 12.97 (commencing with Section 7105) of the Government
20 Code.

21 (C) Is a person or entity that meets both of the following:

22 (i) Is engaged in a trade or business within a targeted tax area
23 designated pursuant to Chapter 12.93 (commencing with Section
24 7097) of the Government Code, or is engaged in a trade or business
25 within a manufacturing enhancement area designated pursuant to
26 Chapter 12.8 (commencing with Section 7073.8) of the
27 Government Code.

28 (ii) Is engaged in those lines of business described as industrial
29 in the North American Industry Classification System Manual,
30 published by the United States Office of Management and Budget.
31 The Employment Development Department shall determine which
32 classifications apply and annually publish those classifications on
33 the Employment Development Department’s Web site.

34 (c) The qualified taxpayer shall do both of the following:

35 (1) Obtain a certificate from the geographically targeted
36 economic development area coordinator designated by the local
37 jurisdiction in which the employee is employed. The Department
38 of Housing and Community Development shall develop regulations
39 governing the issuance of certificates by local governments
40 pursuant to subdivision (a) of Section 7086 of the Government

1 Code. The certifying agency shall not issue a certification when
2 the employer or the employer's agent is the second signatory on
3 the applicant's statement for establishing eligibility.

4 (2) Retain a copy of the certification and provide it upon request
5 to the Franchise Tax Board.

6 (d) (1) For purposes of this section:

7 (A) All employees of trades or businesses, which are not
8 incorporated, that are under common control shall be treated as
9 employed by a single qualified taxpayer.

10 (B) The credit, if any, allowable by this section with respect to
11 each trade or business shall be determined by reference to its
12 proportionate share of the expense of the qualified wages giving
13 rise to the credit, and shall be allocated in that manner.

14 (C) Principles that apply in the case of controlled groups of
15 corporations, as specified in subdivision (d) of Section 23622.9,
16 shall apply with respect to determining employment.

17 (2) If an employer acquires the major portion of a trade or
18 business of another employer (hereinafter in this paragraph referred
19 to as the "predecessor") or the major portion of a separate unit of
20 a trade or business of a predecessor, then, for purposes of applying
21 this section, other than subdivision (e), for any calendar year ending
22 after that acquisition, the employment relationship between a
23 qualified employee and an employer shall not be treated as
24 terminated if the employee continues to be employed in that trade
25 or business.

26 (e) (1) (A) If the employment, other than seasonal employment,
27 of any qualified employee, with respect to whom qualified wages
28 are taken into account under subdivision (a) is terminated by the
29 qualified taxpayer at any time during the first 270 days of that
30 employment, whether or not consecutive, or before the close of
31 the 270th calendar day after the day in which that employee
32 completes 90 days of employment with the qualified taxpayer, the
33 tax imposed by this part for the taxable year in which that
34 employment is terminated shall be increased by an amount equal
35 to the credit allowed under subdivision (a) for that taxable year
36 and all prior taxable years attributable to qualified wages paid or
37 incurred with respect to that employee.

38 (B) If the seasonal employment of any qualified employee, with
39 respect to whom qualified wages are taken into account under
40 subdivision (a) is not continued by the qualified taxpayer for a

1 period of 270 days of employment during the 60-month period
2 beginning with the day the qualified employee commences seasonal
3 employment with the qualified taxpayer, the tax imposed by this
4 part, for the taxable year that includes the 60th month following
5 the month in which the qualified employee commences seasonal
6 employment with the qualified taxpayer, shall be increased by an
7 amount equal to the credit allowed under subdivision (a) for that
8 taxable year and all prior taxable years attributable to qualified
9 wages paid or incurred with respect to that qualified employee. If
10 the employer is located in an area where a state of disaster has
11 been declared, a qualified employee has 360 additional days of
12 nonemployment for purposes of determining his or her status as a
13 “qualified employee,” as defined in this section.

14 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
15 any of the following:

16 (i) A termination of employment of a qualified employee who
17 voluntarily leaves the employment of the qualified taxpayer.

18 (ii) A termination of employment of a qualified employee who,
19 before the close of the period referred to in paragraph (1), becomes
20 disabled and unable to perform the services of that employment,
21 unless that disability is removed before the close of that period
22 and the qualified taxpayer fails to offer reemployment to that
23 employee.

24 (iii) A termination of employment of a qualified employee, if
25 it is determined that the termination was due to the misconduct (as
26 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
27 the California Code of Regulations) of that employee.

28 (iv) A termination of employment of a qualified employee due
29 to a substantial reduction in the trade or business operations of the
30 qualified taxpayer.

31 (v) A termination of employment of a qualified employee, if
32 that employee is replaced by other qualified employees so as to
33 create a net increase in both the number of employees and the
34 hours of employment.

35 (B) Subparagraph (B) of paragraph (1) shall not apply to any
36 of the following:

37 (i) A failure to continue the seasonal employment of a qualified
38 employee who voluntarily fails to return to the seasonal
39 employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(g) (1) The credit allowable under this section shall be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

1 (2) Any deduction otherwise allowed under this part for the
2 wages or salaries paid or incurred by the qualified taxpayer upon
3 which the credit is based shall be reduced by the amount of the
4 credit, prior to any reduction required by subdivision (h) or (i).

5 (h) In the case where the credit otherwise allowed under this
6 section exceeds the “net tax” for the taxable year, that portion of
7 the credit that exceeds the “net tax” may be carried over and added
8 to the credit, if any, in succeeding taxable years, until the credit is
9 exhausted. The credit shall be applied first to the earliest taxable
10 years possible.

11 (i) (1) The amount of the credit otherwise allowed under this
12 section and Sections 17053.33, 17053.45, and 17053.70, including
13 any credit carryover from prior years, that may reduce the “net
14 tax” for the taxable year shall not exceed the amount of tax which
15 would be imposed on the qualified taxpayer’s business income
16 attributable to the geographically targeted economic development
17 area determined as if that attributable income represented all of
18 the income of the qualified taxpayer subject to tax under this part.

19 (2) *After the application of the limitation specified in paragraph*
20 *(1), the amount of credit allowed under this section for the taxable*
21 *year shall be further reduced by the amount of any credit*
22 *carryovers that are allowed under former Sections 17053.34,*
23 *17053.46, 17053.47, and 17053.74 for the same taxable year.*

24 ~~(2)~~

25 (3) Attributable income shall be that portion of the qualified
26 taxpayer’s California source business income that is apportioned
27 to the geographically targeted economic development area. For
28 that purpose, the qualified taxpayer’s business income attributable
29 to sources in this state first shall be determined in accordance with
30 Chapter 17 (commencing with Section 25101) of Part 11. That
31 business income shall be further apportioned to the geographically
32 targeted economic development area in accordance with Article
33 2 (commencing with Section 25120) of Chapter 17 of Part 11,
34 modified for purposes of this section in accordance with paragraph
35 (3).

36 ~~(3)~~

37 (4) Business income shall be apportioned to the geographically
38 targeted economic development area by multiplying the total
39 California business income of the qualified taxpayer by a fraction,
40 the numerator of which is the property factor plus the payroll factor,

1 and the denominator of which is two. For purposes of this
2 paragraph:

3 (A) The property factor is a fraction, the numerator of which is
4 the average value of the qualified taxpayer's real and tangible
5 personal property owned or rented and used in the geographically
6 targeted economic development area during the taxable year, and
7 the denominator of which is the average value of all the qualified
8 taxpayer's real and tangible personal property owned or rented
9 and used in this state during the taxable year.

10 (B) The payroll factor is a fraction, the numerator of which is
11 the total amount paid by the qualified taxpayer in the
12 geographically targeted economic development area during the
13 taxable year for compensation, and the denominator of which is
14 the total compensation paid by the qualified taxpayer in this state
15 during the taxable year.

16 ~~(4)~~

17 (5) The portion of any credit remaining, if any, after application
18 of this subdivision, shall be carried over to succeeding taxable
19 years, as if it were an amount exceeding the "net tax" for the
20 taxable year, as provided in subdivision (h).

21 (j) The credit allowed to a qualified taxpayer pursuant to this
22 section shall be known and may be cited as the Enterprise Zone
23 Credit.

24 *SEC. 7. Section 23036 of the Revenue and Taxation Code is*
25 *amended to read:*

26 23036. (a) (1) The term "tax" includes any of the following:

27 (A) The tax imposed under Chapter 2 (commencing with Section
28 23101).

29 (B) The tax imposed under Chapter 3 (commencing with Section
30 23501).

31 (C) The tax on unrelated business taxable income, imposed
32 under Section 23731.

33 (D) The tax on S corporations imposed under Section 23802.

34 (2) The term "tax" does not include any amount imposed under
35 paragraph (1) of subdivision (e) of Section 24667 or paragraph (2)
36 of subdivision (f) of Section 24667.

37 (b) For purposes of Article 5 (commencing with Section 18661)
38 of Chapter 2, Article 3 (commencing with Section 19031) of
39 Chapter 4, Article 6 (commencing with Section 19101) of Chapter
40 4, and Chapter 7 (commencing with Section 19501) of Part 10.2,

1 and for purposes of Sections 18601, 19001, and 19005, the term
2 “tax” also includes all of the following:

3 (1) The tax on limited partnerships, imposed under Section
4 17935, the tax on limited liability companies, imposed under
5 Section 17941, and the tax on registered limited liability
6 partnerships and foreign limited liability partnerships imposed
7 under Section 17948.

8 (2) The alternative minimum tax imposed under Chapter 2.5
9 (commencing with Section 23400).

10 (3) The tax on built-in gains of S corporations, imposed under
11 Section 23809.

12 (4) The tax on excess passive investment income of S
13 corporations, imposed under Section 23811.

14 (c) Notwithstanding any other provision of this part, credits are
15 allowed against the “tax” in the following order:

16 (1) Credits that do not contain carryover provisions.

17 (2) Credits that, when the credit exceeds the “tax,” allow the
18 excess to be carried over to offset the “tax” in succeeding taxable
19 years, except for those credits that are allowed to reduce the “tax”
20 below the tentative minimum tax, as defined by Section 23455.
21 The order of credits within this paragraph shall be determined by
22 the Franchise Tax Board.

23 (3) The minimum tax credit allowed by Section 23453.

24 (4) Credits that are allowed to reduce the “tax” below the
25 tentative minimum tax, as defined by Section 23455.

26 (5) Credits for taxes withheld under Section 18662.

27 (d) Notwithstanding any other provision of this part, each of
28 the following applies:

29 (1) No credit may reduce the “tax” below the tentative minimum
30 tax (as defined by paragraph (1) of subdivision (a) of Section
31 23455), except the following credits:

32 (A) The credit allowed by former Section 23601 (relating to
33 solar energy).

34 (B) The credit allowed by former Section 23601.4 (relating to
35 solar energy).

36 (C) The credit allowed by former Section 23601.5 (relating to
37 solar energy).

38 (D) The credit allowed by Section 23609 (relating to research
39 expenditures).

1 (E) The credit allowed by former Section 23609.5 (relating to
2 clinical testing expenses).

3 (F) The credit allowed by Section 23610.5 (relating to
4 low-income housing).

5 (G) The credit allowed by former Section 23612 (relating to
6 sales and use tax credit).

7 (H) The credit allowed by Section 23612.2 (relating to enterprise
8 zone sales or use tax credit).

9 (I) The credit allowed by former Section 23612.6 (relating to
10 Los Angeles Revitalization Zone sales tax credit).

11 (J) The credit allowed by former Section 23622 (relating to
12 enterprise zone hiring credit).

13 (K) The credit allowed by Section 23622.7 (relating to enterprise
14 zone hiring credit).

15 (L) The credit allowed by former Section 23623 (relating to
16 program area hiring credit).

17 (M) The credit allowed by former Section 23623.5 (relating to
18 Los Angeles Revitalization Zone hiring credit).

19 (N) The credit allowed by former Section 23625 (relating to
20 Los Angeles Revitalization Zone hiring credit).

21 (O) The credit allowed by Section 23633 (relating to targeted
22 tax area sales or use tax credit).

23 (P) The credit allowed by Section 23634 (relating to targeted
24 tax area hiring credit).

25 (Q) The credit allowed by Section 23649 (relating to qualified
26 property).

27 (R) *The credit allowed by Section 23622.9 (relating to*
28 *geographically targeted economic development areas).*

29 (2) No credit against the tax may reduce the minimum franchise
30 tax imposed under Chapter 2 (commencing with Section 23101).

31 (e) Any credit which is partially or totally denied under
32 subdivision (d) is allowed to be carried over to reduce the “tax”
33 in the following year, and succeeding years if necessary, if the
34 provisions relating to that credit include a provision to allow a
35 carryover of the unused portion of that credit.

36 (f) Unless otherwise provided, any remaining carryover from a
37 credit that has been repealed or made inoperative is allowed to be
38 carried over under the provisions of that section as it read
39 immediately prior to being repealed or becoming inoperative.

1 (g) Unless otherwise provided, if two or more taxpayers share
2 in costs that would be eligible for a tax credit allowed under this
3 part, each taxpayer is eligible to receive the tax credit in proportion
4 to his or her respective share of the costs paid or incurred.

5 (h) Unless otherwise provided, in the case of an S corporation,
6 any credit allowed by this part is computed at the S corporation
7 level, and any limitation on the expenses qualifying for the credit
8 or limitation upon the amount of the credit applies to the S
9 corporation and to each shareholder.

10 (i) (1) With respect to any taxpayer that directly or indirectly
11 owns an interest in a business entity that is disregarded for tax
12 purposes pursuant to Section 23038 and any regulations thereunder,
13 the amount of any credit or credit carryforward allowable for any
14 taxable year attributable to the disregarded business entity is limited
15 in accordance with paragraphs (2) and (3).

16 (2) The amount of any credit otherwise allowed under this part,
17 including any credit carryover from prior years, that may be applied
18 to reduce the taxpayer's "tax," as defined in subdivision (a), for
19 the taxable year is limited to an amount equal to the excess of the
20 taxpayer's regular tax (as defined in Section 23455), determined
21 by including income attributable to the disregarded business entity
22 that generated the credit or credit carryover, over the taxpayer's
23 regular tax (as defined in Section 23455), determined by excluding
24 the income attributable to that disregarded business entity. No
25 credit is allowed if the taxpayer's regular tax (as defined in Section
26 23455), determined by including the income attributable to the
27 disregarded business entity is less than the taxpayer's regular tax
28 (as defined in Section 23455), determined by excluding the income
29 attributable to the disregarded business entity.

30 (3) If the amount of a credit allowed pursuant to the section
31 establishing the credit exceeds the amount allowable under this
32 subdivision in any taxable year, the excess amount may be carried
33 over to subsequent taxable years pursuant to subdivisions (d), (e),
34 and (f).

35 (j) (1) Unless otherwise specifically provided, in the case of a
36 taxpayer that is a partner or shareholder of an eligible pass-through
37 entity described in paragraph (2), any credit passed through to the
38 taxpayer in the taxpayer's first taxable year beginning on or after
39 the date the credit is no longer operative may be claimed by the

1 taxpayer in that taxable year, notwithstanding the repeal of the
2 statute authorizing the credit prior to the close of that taxable year.

3 (2) For purposes of this subdivision, “eligible pass-through
4 entity” means any partnership or S corporation that files its return
5 on a fiscal year basis pursuant to Section 18566, and that is entitled
6 to a credit pursuant to this part for the taxable year that begins
7 during the last year a credit is operative.

8 (3) This subdivision applies to credits that become inoperative
9 on or after the operative date of the act adding this subdivision.

10 ~~SEC. 6.~~

11 *SEC. 8.* Section 23622.7 of the Revenue and Taxation Code is
12 amended to read:

13 23622.7. (a) There shall be allowed a credit against the “tax”
14 (as defined by Section 23036) to a taxpayer who employs a
15 qualified employee in an enterprise zone during the taxable year.
16 The credit shall be equal to the sum of each of the following:

17 (1) Fifty percent of qualified wages in the first year of
18 employment.

19 (2) Forty percent of qualified wages in the second year of
20 employment.

21 (3) Thirty percent of qualified wages in the third year of
22 employment.

23 (4) Twenty percent of qualified wages in the fourth year of
24 employment.

25 (5) Ten percent of qualified wages in the fifth year of
26 employment.

27 (b) For purposes of this section:

28 (1) “Qualified wages” means:

29 (A) (i) Except as provided in clause (ii), that portion of wages
30 paid or incurred by the taxpayer during the taxable year to qualified
31 employees that does not exceed 150 percent of the minimum wage.

32 (ii) For up to 1,350 qualified employees who are employed by
33 the taxpayer in the Long Beach Enterprise Zone in aircraft
34 manufacturing activities described in Codes 3721 to 3728,
35 inclusive, and Code 3812 of the Standard Industrial Classification
36 (SIC) Manual published by the United States Office of
37 Management and Budget, 1987 edition, “qualified wages” means
38 that portion of hourly wages that does not exceed 202 percent of
39 the minimum wage.

1 (B) Wages received during the 60-month period beginning with
2 the first day the employee commences employment with the
3 taxpayer. Reemployment in connection with any increase, including
4 a regularly occurring seasonal increase, in the trade or business
5 operations of the taxpayer does not constitute commencement of
6 employment for purposes of this section.

7 (C) Qualified wages do not include any wages paid or incurred
8 by the taxpayer on or after the zone expiration date. However,
9 wages paid or incurred with respect to qualified employees who
10 are employed by the taxpayer within the enterprise zone within
11 the 60-month period prior to the zone expiration date shall continue
12 to qualify for the credit under this section after the zone expiration
13 date, in accordance with all provisions of this section applied as
14 if the enterprise zone designation were still in existence and
15 binding.

16 (2) “Minimum wage” means the wage established by the
17 Industrial Welfare Commission as provided for in Chapter 1
18 (commencing with Section 1171) of Part 4 of Division 2 of the
19 Labor Code.

20 (3) “Zone expiration date” means the date the enterprise zone
21 designation expires, is no longer binding, or becomes inoperative.

22 (4) (A) “Qualified employee” means an individual who meets
23 all of the following requirements:

24 (i) At least 90 percent of whose services for the taxpayer during
25 the taxable year are directly related to the conduct of the taxpayer’s
26 trade or business located in an enterprise zone.

27 (ii) Performs at least 50 percent of his or her services for the
28 taxpayer during the taxable year in an enterprise zone.

29 (iii) Is hired by the taxpayer after the date of original designation
30 of the area in which services were performed as an enterprise zone.

31 (iv) Is any of the following:

32 (I) Immediately preceding the qualified employee’s
33 commencement of employment with the taxpayer, was a person
34 eligible for services under the federal Job Training Partnership
35 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
36 or is eligible to receive, subsidized employment, training, or
37 services funded by the federal Job Training Partnership Act, or its
38 successor.

39 (II) Immediately preceding the qualified employee’s
40 commencement of employment with the taxpayer, was a person

1 eligible to be a voluntary or mandatory registrant under the Greater
2 Avenues for Independence Act of 1985 (GAIN) provided for
3 pursuant to Article 3.2 (commencing with Section 11320) of
4 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
5 Code, or its successor.

6 (III) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was an
8 economically disadvantaged individual 14 years of age or older.

9 (IV) Immediately preceding the qualified employee's
10 commencement of employment with the taxpayer, was a dislocated
11 worker who meets any of the following:

12 ~~(aa)~~

13 *(ia)* Has been terminated or laid off or who has received a notice
14 of termination or layoff from employment, is eligible for or has
15 exhausted entitlement to unemployment insurance benefits, and
16 is unlikely to return to his or her previous industry or occupation.

17 ~~(bb)~~

18 *(ib)* Has been terminated or has received a notice of termination
19 of employment as a result of any permanent closure or any
20 substantial layoff at a plant, facility, or enterprise, including an
21 individual who has not received written notification but whose
22 employer has made a public announcement of the closure or layoff.

23 ~~(cc)~~

24 *(ic)* Is long-term unemployed and has limited opportunities for
25 employment or reemployment in the same or a similar occupation
26 in the area in which the individual resides, including an individual
27 55 years of age or older who may have substantial barriers to
28 employment by reason of age.

29 ~~(dd)~~

30 *(id)* Was self-employed (including farmers and ranchers) and
31 is unemployed as a result of general economic conditions in the
32 community in which he or she resides or because of natural
33 disasters.

34 ~~(ee)~~

35 *(ie)* Was a civilian employee of the Department of Defense
36 employed at a military installation being closed or realigned under
37 the Defense Base Closure and Realignment Act of 1990.

38 ~~(ff)~~

1 ~~(if)~~ Was an active member of the armed forces or National Guard
2 as of September 30, 1990, and was either involuntarily separated
3 or separated pursuant to a special benefits program.

4 ~~(gg)~~
5 ~~(ig)~~ Is a seasonal or migrant worker who experiences chronic
6 seasonal unemployment and underemployment in the agriculture
7 industry, aggravated by continual advancements in technology and
8 mechanization.

9 ~~(hh)~~
10 ~~(ih)~~ Has been terminated or laid off, or has received a notice of
11 termination or layoff, as a consequence of compliance with the
12 Clean Air Act.

13 (V) Immediately preceding the qualified employee's
14 commencement of employment with the taxpayer, was a disabled
15 individual who is eligible for or enrolled in, or has completed a
16 state rehabilitation plan or is a service-connected disabled veteran,
17 veteran of the Vietnam era, or veteran who is recently separated
18 from military service.

19 (VI) Immediately preceding the qualified employee's
20 commencement of employment with the taxpayer, was an
21 ex-offender. An individual shall be treated as convicted if he or
22 she was placed on probation by a state court without a finding of
23 guilt.

24 (VII) Immediately preceding the qualified employee's
25 commencement of employment with the taxpayer, was a person
26 eligible for or a recipient of any of the following:

27 ~~(aa)~~
28 ~~(ia)~~ Federal Supplemental Security Income benefits.

29 ~~(bb)~~
30 ~~(ib)~~ Aid to Families with Dependent Children.

31 ~~(cc)~~
32 ~~(ic)~~ Food stamps.

33 ~~(dd)~~
34 ~~(id)~~ State and local general assistance.

35 (VIII) Immediately preceding the qualified employee's
36 commencement of employment with the taxpayer, was a member
37 of a federally recognized Indian tribe, band, or other group of
38 Native American descent.

39 (IX) Immediately preceding the qualified employee's
40 commencement of employment with the taxpayer, was a resident

1 of a targeted employment area (as defined in Section 7072 of the
2 Government Code).

3 (X) An employee who qualified the taxpayer for the enterprise
4 zone hiring credit under former Section 23622 or the program area
5 hiring credit under former Section 23623.

6 (XI) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was a member
8 of a targeted group, as defined in Section 51(d) of the Internal
9 Revenue Code, or its successor.

10 (B) Priority for employment shall be provided to an individual
11 who is enrolled in a qualified program under the federal Job
12 Training Partnership Act or the Greater Avenues for Independence
13 Act of 1985 or who is eligible as a member of a targeted group
14 under the Work Opportunity Tax Credit (Section 51 of the Internal
15 Revenue Code), or its successor.

16 (5) "Taxpayer" means a corporation engaged in a trade or
17 business within an enterprise zone designated pursuant to Chapter
18 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
19 the Government Code.

20 (6) "Seasonal employment" means employment by a taxpayer
21 that has regular and predictable substantial reductions in trade or
22 business operations.

23 (c) The taxpayer shall do both of the following:

24 (1) Obtain from the Employment Development Department, as
25 permitted by federal law, the local county or city Job Training
26 Partnership Act administrative entity, the local county GAIN office
27 or social services agency, or the local government administering
28 the enterprise zone, a certification that provides that a qualified
29 employee meets the eligibility requirements specified in clause
30 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
31 Employment Development Department may provide preliminary
32 screening and referral to a certifying agency. The Employment
33 Development Department shall develop a form for this purpose.
34 The Department of Housing and Community Development shall
35 develop regulations governing the issuance of certificates by local
36 governments pursuant to subdivision (a) of Section 7086 of the
37 Government Code.

38 (2) Retain a copy of the certification and provide it upon request
39 to the Franchise Tax Board.

40 (d) (1) For purposes of this section:

1 (A) All employees of all corporations which are members of
2 the same controlled group of corporations shall be treated as
3 employed by a single taxpayer.

4 (B) The credit, if any, allowable by this section to each member
5 shall be determined by reference to its proportionate share of the
6 expense of the qualified wages giving rise to the credit, and shall
7 be allocated in that manner.

8 (C) For purposes of this subdivision, “controlled group of
9 corporations” means “controlled group of corporations” as defined
10 in Section 1563(a) of the Internal Revenue Code, except that:

11 (i) “More than 50 percent” shall be substituted for “at least 80
12 percent” each place it appears in Section 1563(a)(1) of the Internal
13 Revenue Code.

14 (ii) The determination shall be made without regard to
15 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
16 Revenue Code.

17 (2) If an employer acquires the major portion of a trade or
18 business of another employer (hereinafter in this paragraph referred
19 to as the “predecessor”) or the major portion of a separate unit of
20 a trade or business of a predecessor, then, for purposes of applying
21 this section (other than subdivision (e)) for any calendar year
22 ending after that acquisition, the employment relationship between
23 a qualified employee and an employer shall not be treated as
24 terminated if the employee continues to be employed in that trade
25 or business.

26 (e) (1) (A) If the employment, other than seasonal employment,
27 of any qualified employee with respect to whom qualified wages
28 are taken into account under subdivision (a) is terminated by the
29 taxpayer at any time during the first 270 days of that employment,
30 whether or not consecutive, or before the close of the 270th
31 calendar day after the day in which that employee completes 90
32 days of employment with the taxpayer, the tax imposed by this
33 part for the taxable year in which that employment is terminated
34 shall be increased by an amount equal to the credit allowed under
35 subdivision (a) for that taxable year and all prior taxable years
36 attributable to qualified wages paid or incurred with respect to that
37 employee.

38 (B) If the seasonal employment of any qualified employee, with
39 respect to whom qualified wages are taken into account under
40 subdivision (a) is not continued by the taxpayer for a period of

1 270 days of employment during the 60-month period beginning
2 with the day the qualified employee commences seasonal
3 employment with the taxpayer, the tax imposed by this part, for
4 the taxable year that includes the 60th month following the month
5 in which the qualified employee commences seasonal employment
6 with the taxpayer, shall be increased by an amount equal to the
7 credit allowed under subdivision (a) for that taxable year and all
8 prior taxable years attributable to qualified wages paid or incurred
9 with respect to that qualified employee.

10 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
11 any of the following:

12 (i) A termination of employment of a qualified employee who
13 voluntarily leaves the employment of the taxpayer.

14 (ii) A termination of employment of a qualified employee who,
15 before the close of the period referred to in subparagraph (A) of
16 paragraph (1), becomes disabled and unable to perform the services
17 of that employment, unless that disability is removed before the
18 close of that period and the taxpayer fails to offer reemployment
19 to that employee.

20 (iii) A termination of employment of a qualified employee, if
21 it is determined that the termination was due to the misconduct (as
22 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
23 the California Code of Regulations) of that employee.

24 (iv) A termination of employment of a qualified employee due
25 to a substantial reduction in the trade or business operations of the
26 taxpayer.

27 (v) A termination of employment of a qualified employee, if
28 that employee is replaced by other qualified employees so as to
29 create a net increase in both the number of employees and the
30 hours of employment.

31 (B) Subparagraph (B) of paragraph (1) shall not apply to any
32 of the following:

33 (i) A failure to continue the seasonal employment of a qualified
34 employee who voluntarily fails to return to the seasonal
35 employment of the taxpayer.

36 (ii) A failure to continue the seasonal employment of a qualified
37 employee who, before the close of the period referred to in
38 subparagraph (B) of paragraph (1), becomes disabled and unable
39 to perform the services of that seasonal employment, unless that
40 disability is removed before the close of that period and the

1 taxpayer fails to offer seasonal employment to that qualified
2 employee.

3 (iii) A failure to continue the seasonal employment of a qualified
4 employee, if it is determined that the failure to continue the
5 seasonal employment was due to the misconduct (as defined in
6 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
7 Code of Regulations) of that qualified employee.

8 (iv) A failure to continue seasonal employment of a qualified
9 employee due to a substantial reduction in the regular seasonal
10 trade or business operations of the taxpayer.

11 (v) A failure to continue the seasonal employment of a qualified
12 employee, if that qualified employee is replaced by other qualified
13 employees so as to create a net increase in both the number of
14 seasonal employees and the hours of seasonal employment.

15 (C) For purposes of paragraph (1), the employment relationship
16 between the taxpayer and a qualified employee shall not be treated
17 as terminated by either of the following:

18 (i) By a transaction to which Section 381(a) of the Internal
19 Revenue Code applies, if the qualified employee continues to be
20 employed by the acquiring corporation.

21 (ii) By reason of a mere change in the form of conducting the
22 trade or business of the taxpayer, if the qualified employee
23 continues to be employed in that trade or business and the taxpayer
24 retains a substantial interest in that trade or business.

25 (3) Any increase in tax under paragraph (1) shall not be treated
26 as tax imposed by this part for purposes of determining the amount
27 of any credit allowable under this part.

28 (f) Rules similar to the rules provided in Section 46(e) and (h)
29 of the Internal Revenue Code shall apply to both of the following:

30 (1) An organization to which Section 593 of the Internal
31 Revenue Code applies.

32 (2) A regulated investment company or a real estate investment
33 trust subject to taxation under this part.

34 (g) For purposes of this section, “enterprise zone” means an
35 area designated as an enterprise zone pursuant to Chapter 12.8
36 (commencing with Section 7070) of Division 7 of Title 1 of the
37 Government Code.

38 (h) The credit allowable under this section shall be reduced by
39 the credit allowed under Sections 23623.5, 23625, and 23646
40 claimed for the same employee. The credit shall also be reduced

1 by the federal credit allowed under Section 51 of the Internal
2 Revenue Code.

3 In addition, any deduction otherwise allowed under this part for
4 the wages or salaries paid or incurred by the taxpayer upon which
5 the credit is based shall be reduced by the amount of the credit,
6 prior to any reduction required by subdivision (i) or (j).

7 (i) In the case where the credit otherwise allowed under this
8 section exceeds the “tax” for the taxable year, that portion of the
9 credit that exceeds the “tax” may be carried over and added to the
10 credit, if any, in succeeding taxable years, until the credit is
11 exhausted. The credit shall be applied first to the earliest taxable
12 years possible.

13 (j) (1) The amount of the credit otherwise allowed under this
14 section and Section 23612.2, including any credit carryover from
15 prior years, that may reduce the “tax” for the taxable year shall
16 not exceed the amount of tax which would be imposed on the
17 taxpayer’s business income attributable to the enterprise zone
18 determined as if that attributable income represented all of the
19 income of the taxpayer subject to tax under this part.

20 (2) Attributable income shall be that portion of the taxpayer’s
21 California source business income that is apportioned to the
22 enterprise zone. For that purpose, the taxpayer’s business
23 attributable to sources in this state first shall be determined in
24 accordance with Chapter 17 (commencing with Section 25101).
25 That business income shall be further apportioned to the enterprise
26 zone in accordance with Article 2 (commencing with Section
27 25120) of Chapter 17, modified for purposes of this section in
28 accordance with paragraph (3).

29 (3) Business income shall be apportioned to the enterprise zone
30 by multiplying the total California business income of the taxpayer
31 by a fraction, the numerator of which is the property factor plus
32 the payroll factor, and the denominator of which is two. For
33 purposes of this paragraph:

34 (A) The property factor is a fraction, the numerator of which is
35 the average value of the taxpayer’s real and tangible personal
36 property owned or rented and used in the enterprise zone during
37 the income year, and the denominator of which is the average value
38 of all the taxpayer’s real and tangible personal property owned or
39 rented and used in this state during the income year.

1 (B) The payroll factor is a fraction, the numerator of which is
2 the total amount paid by the taxpayer in the enterprise zone during
3 the income year for compensation, and the denominator of which
4 is the total compensation paid by the taxpayer in this state during
5 the income year.

6 (4) The portion of any credit remaining, if any, after application
7 of this subdivision, shall be carried over to succeeding taxable
8 years, as if it were an amount exceeding the “tax” for the taxable
9 year, as provided in subdivision (i).

10 (k) The changes made to this section by the act adding this
11 subdivision shall apply to taxable years on or after January 1, 1997.

12 (l) (1) The credit authorized by this section shall not be allowed
13 for taxable years beginning on or after January 1, 2008.

14 (2) On or after January 1, 2008, taxpayers that would otherwise
15 be eligible to claim a credit authorized by this section may claim
16 a credit for these expenses under Section 23622.9.

17 (3) Notwithstanding this subdivision, the provisions of
18 ~~subdivision (f) of Section 23036 shall apply with respect to any~~
19 ~~remaining carryover of the credit previously authorized by this~~
20 ~~section.~~ *subdivision (f) of Section 23036 shall apply to allow*
21 *carryover of credits previously authorized by this section to taxable*
22 *years beginning on or after January 1, 2008.*

23 ~~SEC. 7.~~

24 *SEC. 9.* Section 23622.8 of the Revenue and Taxation Code is
25 amended to read:

26 23622.8. (a) For each taxable year beginning on or after
27 January 1, 1998, there shall be allowed a credit against the “tax”
28 (as defined in Section 23036) to a qualified taxpayer for hiring a
29 qualified disadvantaged individual during the taxable year for
30 employment in the manufacturing enhancement area. The credit
31 shall be equal to the sum of each of the following:

32 (1) Fifty percent of the qualified wages in the first year of
33 employment.

34 (2) Forty percent of the qualified wages in the second year of
35 employment.

36 (3) Thirty percent of the qualified wages in the third year of
37 employment.

38 (4) Twenty percent of the qualified wages in the fourth year of
39 employment.

1 (5) Ten percent of the qualified wages in the fifth year of
2 employment.

3 (b) For purposes of this section:

4 (1) “Qualified wages” means the following:

5 (A) That portion of wages paid or incurred by the qualified
6 taxpayer during the taxable year to qualified disadvantaged
7 individuals that does not exceed 150 percent of the minimum wage.

8 (B) The total amount of qualified wages which may be taken
9 into account for purposes of claiming the credit allowed under this
10 section shall not exceed two million dollars (\$2,000,000) per
11 taxable year.

12 (C) Wages received during the 60-month period beginning with
13 the first day the qualified disadvantaged individual commences
14 employment with the qualified taxpayer. Reemployment in
15 connection with any increase, including a regularly occurring
16 seasonal increase, in the trade or business operations of the
17 qualified taxpayer does not constitute commencement of
18 employment for purposes of this section.

19 (D) Qualified wages do not include any wages paid or incurred
20 by the qualified taxpayer on or after the manufacturing
21 enhancement area expiration date. However, wages paid or incurred
22 with respect to qualified employees who are employed by the
23 qualified taxpayer within the manufacturing enhancement area
24 within the 60-month period prior to the manufacturing enhancement
25 area expiration date shall continue to qualify for the credit under
26 this section after the manufacturing enhancement area expiration
27 date, in accordance with all provisions of this section applied as
28 if the manufacturing enhancement area designation were still in
29 existence and binding.

30 (2) “Minimum wage” means the wage established by the
31 Industrial Welfare Commission as provided for in Chapter 1
32 (commencing with Section 1171) of Part 4 of Division 2 of the
33 Labor Code.

34 (3) “Manufacturing enhancement area” means an area designated
35 pursuant to Section 7073.8 of the Government Code according to
36 the procedures of Chapter 12.8 (commencing with Section 7070)
37 of Division 7 of Title 1 of the Government Code.

38 (4) “Manufacturing enhancement area expiration date” means
39 the date the manufacturing enhancement area designation expires,
40 is no longer binding, or becomes inoperative.

1 (5) “Qualified disadvantaged individual” means an individual
2 who satisfies all of the following requirements:

3 (A) (i) At least 90 percent of whose services for the qualified
4 taxpayer during the taxable year are directly related to the conduct
5 of the qualified taxpayer’s trade or business located in a
6 manufacturing enhancement area.

7 (ii) Who performs at least 50 percent of his or her services for
8 the qualified taxpayer during the taxable year in the manufacturing
9 enhancement area.

10 (B) Who is hired by the qualified taxpayer after the designation
11 of the area as a manufacturing enhancement area in which the
12 individual’s services were primarily performed.

13 (C) Who is any of the following immediately preceding the
14 individual’s commencement of employment with the qualified
15 taxpayer:

16 (i) An individual who has been determined eligible for services
17 under the federal Job Training Partnership Act (29 U.S.C. Sec.
18 1501 et seq.) or its successor.

19 (ii) Any voluntary or mandatory registrant under the Greater
20 Avenues for Independence Act of 1985, or its successor, as
21 provided pursuant to Article 3.2 (commencing with Section 11320)
22 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
23 Code.

24 (iii) Any individual who has been certified eligible by the
25 Employment Development Department under the federal Targeted
26 Jobs Tax Credit Program, or its successor, whether or not this
27 program is in effect.

28 (6) “Qualified taxpayer” means any corporation engaged in a
29 trade or business within a manufacturing enhancement area
30 designated pursuant to Section 7073.8 of the Government Code
31 and that meets all of the following requirements:

32 (A) Is engaged in those lines of business described in Codes
33 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
34 inclusive, of the Standard Industrial Classification (SIC) Manual
35 published by the United States Office of Management and Budget,
36 1987 edition.

37 (B) At least 50 percent of the qualified taxpayer’s workforce
38 hired after the designation of the manufacturing enhancement area
39 is composed of individuals who, at the time of hire, are residents

1 of the county in which the manufacturing enhancement area is
2 located.

3 (C) Of this percentage of local hires, at least 30 percent shall
4 be qualified disadvantaged individuals.

5 (7) “Seasonal employment” means employment by a qualified
6 taxpayer that has regular and predictable substantial reductions in
7 trade or business operations.

8 (c) (1) For purposes of this section, all of the following apply:

9 (A) All employees of all corporations that are members of the
10 same controlled group of corporations shall be treated as employed
11 by a single qualified taxpayer.

12 (B) The credit (if any) allowable by this section with respect to
13 each member shall be determined by reference to its proportionate
14 share of the expenses of the qualified wages giving rise to the
15 credit and shall be allocated in that manner.

16 (C) Principles that apply in the case of controlled groups of
17 corporations, as specified in subdivision (d) of Section 23622.7,
18 shall apply with respect to determining employment.

19 (2) If a qualified taxpayer acquires the major portion of a trade
20 or business of another employer (hereinafter in this paragraph
21 referred to as the “predecessor”) or the major portion of a separate
22 unit of a trade or business of a predecessor, then, for purposes of
23 applying this section (other than subdivision (d)) for any calendar
24 year ending after that acquisition, the employment relationship
25 between a qualified disadvantaged individual and a qualified
26 taxpayer shall not be treated as terminated if the qualified
27 disadvantaged individual continues to be employed in that trade
28 or business.

29 (d) (1) (A) If the employment, other than seasonal employment,
30 of any qualified disadvantaged individual, with respect to whom
31 qualified wages are taken into account under subdivision (b) is
32 terminated by the qualified taxpayer at any time during the first
33 270 days of that employment (whether or not consecutive) or before
34 the close of the 270th calendar day after the day in which that
35 qualified disadvantaged individual completes 90 days of
36 employment with the qualified taxpayer, the tax imposed by this
37 part for the taxable year in which that employment is terminated
38 shall be increased by an amount equal to the credit allowed under
39 subdivision (a) for that taxable year and all prior taxable years

1 attributable to qualified wages paid or incurred with respect to that
2 qualified disadvantaged individual.

3 (B) If the seasonal employment of any qualified disadvantaged
4 individual, with respect to whom qualified wages are taken into
5 account under subdivision (a) is not continued by the qualified
6 taxpayer for a period of 270 days of employment during the
7 60-month period beginning with the day the qualified
8 disadvantaged individual commences seasonal employment with
9 the qualified taxpayer, the tax imposed by this part, for the income
10 year that includes the 60th month following the month in which
11 the qualified disadvantaged individual commences seasonal
12 employment with the qualified taxpayer, shall be increased by an
13 amount equal to the credit allowed under subdivision (a) for that
14 taxable year and all prior taxable years attributable to qualified
15 wages paid or incurred with respect to that qualified disadvantaged
16 individual.

17 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
18 any of the following:

19 (i) A termination of employment of a qualified disadvantaged
20 individual who voluntarily leaves the employment of the qualified
21 taxpayer.

22 (ii) A termination of employment of a qualified disadvantaged
23 individual who, before the close of the period referred to in
24 subparagraph (A) of paragraph (1), becomes disabled to perform
25 the services of that employment, unless that disability is removed
26 before the close of that period and the qualified taxpayer fails to
27 offer reemployment to that individual.

28 (iii) A termination of employment of a qualified disadvantaged
29 individual, if it is determined that the termination was due to the
30 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
31 of Title 22 of the California Code of Regulations) of that individual.

32 (iv) A termination of employment of a qualified disadvantaged
33 individual due to a substantial reduction in the trade or business
34 operations of the qualified taxpayer.

35 (v) A termination of employment of a qualified disadvantaged
36 individual, if that individual is replaced by other qualified
37 disadvantaged individuals so as to create a net increase in both the
38 number of employees and the hours of employment.

39 (B) Subparagraph (B) of paragraph (1) shall not apply to any
40 of the following:

1 (i) A failure to continue the seasonal employment of a qualified
2 disadvantaged individual who voluntarily fails to return to the
3 seasonal employment of the qualified taxpayer.

4 (ii) A failure to continue the seasonal employment of a qualified
5 disadvantaged individual who, before the close of the period
6 referred to in subparagraph (B) of paragraph (1), becomes disabled
7 and unable to perform the services of that seasonal employment,
8 unless that disability is removed before the close of that period
9 and the qualified taxpayer fails to offer seasonal employment to
10 that qualified disadvantaged individual.

11 (iii) A failure to continue the seasonal employment of a qualified
12 disadvantaged individual, if it is determined that the failure to
13 continue the seasonal employment was due to the misconduct (as
14 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
15 the California Code of Regulations) of that qualified disadvantaged
16 individual.

17 (iv) A failure to continue seasonal employment of a qualified
18 disadvantaged individual due to a substantial reduction in the
19 regular seasonal trade or business operations of the qualified
20 taxpayer.

21 (v) A failure to continue the seasonal employment of a qualified
22 disadvantaged individual, if that qualified disadvantaged individual
23 is replaced by other qualified disadvantaged individuals so as to
24 create a net increase in both the number of seasonal employees
25 and the hours of seasonal employment.

26 (C) For purposes of paragraph (1), the employment relationship
27 between the qualified taxpayer and a qualified disadvantaged
28 individual shall not be treated as terminated by either of the
29 following:

30 (i) By a transaction to which Section 381(a) of the Internal
31 Revenue Code applies, if the qualified disadvantaged individual
32 continues to be employed by the acquiring corporation.

33 (ii) By reason of a mere change in the form of conducting the
34 trade or business of the qualified taxpayer, if the qualified
35 disadvantaged individual continues to be employed in that trade
36 or business and the qualified taxpayer retains a substantial interest
37 in that trade or business.

38 (3) Any increase in tax under paragraph (1) shall not be treated
39 as tax imposed by this part for purposes of determining the amount
40 of any credit allowable under this part.

1 (e) The credit shall be reduced by the credit allowed under
2 Section 23621. The credit shall also be reduced by the federal
3 credit allowed under Section 51 of the Internal Revenue Code.

4 In addition, any deduction otherwise allowed under this part for
5 the wages or salaries paid or incurred by the qualified taxpayer
6 upon which the credit is based shall be reduced by the amount of
7 the credit, prior to any reduction required by subdivision (f) or (g).

8 (f) In the case where the credit otherwise allowed under this
9 section exceeds the “tax” for the taxable year, that portion of the
10 credit that exceeds the “tax” may be carried over and added to the
11 credit, if any, in succeeding years, until the credit is exhausted.
12 The credit shall be applied first to the earliest taxable years
13 possible.

14 (g) (1) The amount of credit otherwise allowed under this
15 section, including prior year credit carryovers, that may reduce
16 the “tax” for the taxable year shall not exceed the amount of tax
17 that would be imposed on the qualified taxpayer’s business income
18 attributed to a manufacturing enhancement area determined as if
19 that attributed income represented all of the net income of the
20 qualified taxpayer subject to tax under this part.

21 (2) Attributable income is that portion of the taxpayer’s
22 California source business income that is apportioned to the
23 manufacturing enhancement area. For that purpose, the taxpayer’s
24 business income attributable to sources in this state first shall be
25 determined in accordance with Chapter 17 (commencing with
26 Section 25101). That business income shall be further apportioned
27 to the manufacturing enhancement area in accordance with Article
28 2 (commencing with Section 25120) of Chapter 17, modified for
29 purposes of this section in accordance with paragraph (3).

30 (3) Income shall be apportioned to a manufacturing enhancement
31 area by multiplying the total California business income of the
32 taxpayer by a fraction, the numerator of which is the property
33 factor plus the payroll factor, and the denominator of which is two.
34 For the purposes of this paragraph:

35 (A) The property factor is a fraction, the numerator of which is
36 the average value of the taxpayer’s real and tangible personal
37 property owned or rented and used in the manufacturing
38 enhancement area during the taxable year, and the denominator
39 of which is the average value of all the taxpayer’s real and tangible

1 personal property owned or rented and used in this state during
2 the taxable year.

3 (B) The payroll factor is a fraction, the numerator of which is
4 the total amount paid by the taxpayer in the manufacturing
5 enhancement area during the taxable year for compensation, and
6 the denominator of which is the total compensation paid by the
7 taxpayer in this state during the taxable year.

8 (4) The portion of any credit remaining, if any, after application
9 of this subdivision, shall be carried over to succeeding taxable
10 years, as if it were an amount exceeding the “tax” for the taxable
11 year, as provided in subdivision (g).

12 (h) If the taxpayer is allowed a credit pursuant to this section
13 for qualified wages paid or incurred, only one credit shall be
14 allowed to the taxpayer under this part with respect to any wage
15 consisting in whole or in part of those qualified wages.

16 (i) The qualified taxpayer shall do both of the following:

17 (1) Obtain from the Employment Development Department, as
18 permitted by federal law, the local county or city Job Training
19 Partnership Act administrative entity, the local county GAIN office
20 or social services agency, or the local government administering
21 the manufacturing enhancement area, a certification that provides
22 that a qualified disadvantaged individual meets the eligibility
23 requirements specified in paragraph (5) of subdivision (b). The
24 Employment Development Department may provide preliminary
25 screening and referral to a certifying agency. The Department of
26 Housing and Community Development shall develop regulations
27 governing the issuance of certificates pursuant to subdivision (d)
28 of Section 7086 of the Government Code and shall develop forms
29 for this purpose.

30 (2) Retain a copy of the certification and provide it upon request
31 to the Franchise Tax Board.

32 (j) (1) The credit authorized by this section shall not be allowed
33 for taxable years beginning on or after January 1, 2008.

34 (2) On or after January 1, 2008, taxpayers that would otherwise
35 be eligible to claim a credit authorized by this section may claim
36 a credit for these expenses under Section 23622.9.

37 (3) Notwithstanding this subdivision, the provisions of
38 ~~subdivision (f) of Section 23036 shall apply with respect to any~~
39 ~~remaining carryover of the credit previously authorized by this~~
40 ~~section. subdivision (f) of Section 23036 shall apply to allow~~

1 *carryover of credits previously authorized by this section to taxable*
2 *years beginning on or after January 1, 2008.*

3 ~~SEC. 8.~~

4 *SEC. 10.* Section 23622.9 is added to the Revenue and Taxation
5 Code, to read:

6 23622.9. (a) For each taxable year beginning on or after
7 January 1, 2008, there shall be allowed a credit against the “tax,”
8 as defined in Section 23036, to a qualified taxpayer who employs
9 a qualified employee in a geographically targeted economic
10 development area during the taxable year. The credit shall be equal
11 to the sum of each of the following:

12 (1) ~~Fifty~~ *Forty-nine* percent of the qualified wages in the first
13 year of employment.

14 (2) Forty percent of the qualified wages in the second year of
15 employment.

16 (3) Thirty percent of the qualified wages in the third year of
17 employment.

18 (4) Twenty percent of the qualified wages in the fourth year of
19 employment.

20 (5) Ten percent of the qualified wages in the fifth year of
21 employment.

22 (b) For purposes of this section, all of the following definitions
23 apply:

24 (1) “Geographically targeted economic development area”
25 means any of the following:

26 (A) An enterprise zone designated as an enterprise zone pursuant
27 to Chapter 12.8 (commencing with Section 7070) of Division 7 of
28 Title 1 of the Government Code.

29 (B) A local agency military base recovery area designated as a
30 local agency military base recovery area pursuant to Chapter 12.97
31 (commencing with Section 7105).

32 (C) A targeted tax area designated as a targeted tax area pursuant
33 to Chapter 12.93 (commencing with Section 7097).

34 (D) A manufacturing enhancement area designated as a
35 manufacturing enhancement area pursuant to Chapter 12.8
36 (commencing with Section 7073.8).

37 (2) “Geographically targeted economic development area
38 expiration date” means the date the geographically targeted
39 economic development area designation expires, is no longer
40 binding, or becomes inoperative.

1 (3) “Minimum wage” means the wage established by the
2 Industrial Welfare Commission as provided for in Chapter 1
3 (commencing with Section 1171) of Part 4 of Division 2 of the
4 Labor Code.

5 (4) (A) “Qualified employee” means an individual who meets
6 all of the following requirements:

7 (i) At least 90 percent of whose services for the qualified
8 taxpayer during the taxable year are directly related to the conduct
9 of the qualified taxpayer’s trade or business located in a
10 geographically targeted economic development area.

11 (ii) Performs at least 50 percent of his or her services for the
12 qualified taxpayer during the taxable year in a geographically
13 targeted economic development area.

14 (iii) Is initially hired by the qualified taxpayer after the date of
15 original designation of the area in which services were performed
16 as a geographically targeted economic development area.

17 (iv) Is any of the following, as documented by the
18 geographically targeted economic development area coordinator:

19 (I) Immediately preceding the qualified employee’s
20 commencement of employment with the qualified taxpayer, was
21 a person eligible for services under the federal Job Training
22 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
23 who is receiving, or is eligible to receive, subsidized employment,
24 training, or services funded by the federal Job Training Partnership
25 Act, or its successor.

26 (II) Immediately preceding the qualified employee’s
27 commencement of employment with the qualified taxpayer, was
28 a person eligible to be a voluntary or mandatory registrant under
29 the Greater Avenues for Independence Act of 1985 (GAIN)
30 program provided for pursuant to Article 3.2 (commencing with
31 Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare
32 and Institutions Code, or its successor.

33 (III) Immediately preceding the qualified employee’s
34 commencement of employment with the qualified taxpayer, was
35 an economically disadvantaged individual 16 years of age or older.
36 For purposes of this section, “economically disadvantaged
37 individual” means an individual who meets the definition of that
38 term under the Workforce Investment Act, or its successor.

1 (IV) Immediately preceding the qualified employee's
2 commencement of employment with the qualified taxpayer, was
3 a dislocated worker who meets any of the following requirements:

4 ~~(aa)~~

5 (ia) Has been terminated or laid off or who has received a notice
6 of termination or layoff from employment, is eligible for or has
7 exhausted entitlement to unemployment insurance benefits, and
8 is unlikely to return to his or her previous industry or occupation.

9 ~~(bb)~~

10 (ib) Has been terminated or has received a notice of termination
11 of employment as a result of any permanent closure or any
12 substantial layoff at a plant, facility, or enterprise, including an
13 individual who has not received written notification but whose
14 employer has made a public announcement of the closure or layoff.

15 ~~(cc)~~

16 (ic) Is long-term unemployed and has limited opportunities for
17 employment or reemployment in the same or a similar occupation
18 in the area in which the individual resides, including an individual
19 55 years of age or older who may have substantial barriers to
20 employment by reason of age.

21 ~~(dd)~~

22 (id) Was self-employed (including farmers and ranchers) and
23 is unemployed as a result of general economic conditions in the
24 community in which he or she resides or because of natural
25 disasters.

26 ~~(ee)~~

27 (ie) Was a civilian employee of the Department of Defense
28 employed at a military installation being closed or realigned under
29 the Defense Base Closure and Realignment Act of 1990.

30 ~~(ff)~~

31 (if) Was an active member of the Armed Forces or National
32 Guard as of September 30, 1990, and was either involuntarily
33 separated or separated pursuant to a special benefits program.

34 ~~(gg)~~

35 (ig) Is a seasonal or migrant worker who experiences chronic
36 seasonal unemployment and underemployment in the agriculture
37 industry, aggravated by continual advancements in technology and
38 mechanization.

39 ~~(hh)~~

1 ~~(ih)~~ Has been terminated or laid off, or has received a notice of
2 termination or layoff, as a consequence of compliance with the
3 Clean Air Act.

4 (V) Immediately preceding the qualified employee's
5 commencement of employment with the qualified taxpayer, was
6 a disabled individual who is eligible for or enrolled in, or has
7 completed a state rehabilitation plan.

8 (VI) Is an individual who was discharged or released from
9 service under conditions other than dishonorable, and is either of
10 the following:

11 ~~(aa)~~

12 ~~(ia)~~ A service-connected disabled veteran.

13 ~~(bb)~~

14 ~~(ib)~~ An individual who was discharged or released in the last
15 48 months from active military, naval, or an air service.

16 ~~(ee)~~

17 ~~(ic)~~ An individual who served in the active military, naval, or
18 air service of the United States between February 28, 1961, and
19 May 8, 1975.

20 ~~(dd)~~

21 ~~(id)~~ An individual who was discharged or released in the last
22 48 months from active service in the National Guard if the
23 individual served on foreign soil prior to discharge.

24 (VII) Is an individual who has convicted of a felony or a
25 misdemeanor offense punishable by incarceration, or a person
26 charged with a felony offense or a misdemeanor offense punishable
27 by incarceration but placed on probation by a state court without
28 a finding of guilt.

29 ~~(VIII) Is an individual who is a former member of a criminal~~
30 ~~street gang, certified as such by a federal, state, or local law~~
31 ~~enforcement agency.~~

32 ~~(IX)~~

33 (VIII) Immediately preceding the qualified employee's
34 commencement of employment with the qualified taxpayer, was
35 a person eligible for, or a recipient of, any of the following:

36 ~~(aa)~~

37 ~~(ia)~~ Federal Supplemental Security Income benefits.

38 ~~(bb)~~

39 ~~(ib)~~ Temporary Assistance for Needy Families.

40 ~~(ee)~~

1 (ic) Food stamps.

2 ~~(dd)~~

3 (id) State and local general assistance.

4 ~~(X)~~

5 (IX) Immediately preceding the qualified employee's
6 commencement of employment with the qualified taxpayer, was
7 a member of a federally recognized Indian tribe, band, or other
8 group of Native American descent.

9 ~~(XI)~~

10 (X) Immediately preceding the qualified employee's
11 commencement of employment with the qualified taxpayer, was
12 a resident of a targeted employment area, as defined in Section
13 7072 of the Government Code.

14 ~~(XH)~~

15 (XI) Immediately preceding the qualified employee's
16 commencement of employment with the qualified taxpayer located
17 in a targeted tax area, was a resident of that targeted tax area.

18 ~~(XII)~~

19 (XII) Immediately preceding the qualified employee's
20 commencement of employment with the qualified taxpayer, was
21 a member of a targeted group, as defined in Section 51(d) of the
22 Internal Revenue Code, or its successor.

23 (B) (i) Priority for employment shall be provided to any of the
24 following individuals:

25 (I) An individual who is enrolled in a qualified program under
26 the federal Workforce Investment Act, or its successor.

27 (II) An individual who is enrolled in the California Work
28 Opportunity and Responsibility to Kids Program, or its successor.

29 (III) An individual who is eligible as a member of a targeted
30 group under the Work Opportunity Tax Credit (Section 51 of the
31 Internal Revenue Code), or its successor.

32 (ii) On or before December 15 of each calendar year, the
33 Employment Development Department shall report to the
34 Legislature regarding the following information:

35 (I) Types of training and services that the department provided,
36 in the previous fiscal year, to the individuals enrolled and
37 documented in the California Job Training Automation System
38 and in the California Work Opportunity and Responsibility to Kids
39 Program.

(II) Number of individuals enrolled in the California Job Training Automation System and in the California Work Opportunity and Responsibility to Kids Program who, in the previous fiscal year, were referred by the Employment Development Department to the geographically targeted economic development area programs for employment.

(5) “Qualified wages” means the following:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the qualified taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described as industrial activities in the North American Industry Classification System Manual, published by the United States Office of Management and Budget, “qualified wages” means that portion of hourly wages that does not exceed 202 percent of the minimum wage. The Employment Development Department shall determine which classifications apply and annually publish those classifications on the Employment Development Department’s Web site.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the expiration date of the geographically targeted economic development area. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the geographically targeted economic development area within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the expiration date of the geographically targeted economic development area, in accordance with all provisions of this section applied as if the geographically targeted economic development area designation were still in existence and binding.

1 (6) “Seasonal employment” means employment by a qualified
2 taxpayer that has regular and predictable substantial reductions in
3 trade or business operations.

4 (7) “Qualified taxpayer” means a taxpayer that meets any of
5 the following requirements:

6 (A) Is a person or entity engaged in a trade or business within
7 an enterprise zone designated pursuant to Chapter 12.8
8 (commencing with Section 7070) of Division 7 of Title 1 of the
9 Government Code.

10 (B) Is a person or entity engaged in a trade or business within
11 a local agency military base recovery area designated pursuant to
12 Chapter 12.97 (commencing with Section 7105) of the Government
13 Code.

14 (C) Is a person or entity that meets both of the following:

15 (i) Is engaged in a trade or business within a targeted tax area
16 designated pursuant to Chapter 12.93 (commencing with Section
17 7097) of the Government Code, or is engaged in a trade or business
18 within a manufacturing enhancement area designated pursuant to
19 Chapter 12.8 (commencing with Section 7073.8) of the
20 Government Code.

21 (ii) Is engaged in those lines of business described as industrial
22 in the North American Industry Classification System Manual,
23 published by the United States Office of Management and Budget.
24 The Employment Development Department shall determine which
25 classifications apply and annually publish those classifications on
26 the Employment Development Department’s Web site.

27 (c) The qualified taxpayer shall do both of the following:

28 (1) Obtain a certificate from the geographically targeted
29 economic development area coordinator designated by the local
30 jurisdiction in which the employee is employed. The Department
31 of Housing and Community Development shall develop regulations
32 governing the issuance of certificates by local governments
33 pursuant to subdivision (a) of Section 7086 of the Government
34 Code. The certifying agency shall not issue a certification when
35 the employer or the employer’s agent is the second signatory on
36 the applicant’s statement for establishing eligibility.

37 (2) Retain a copy of the certification and provide it upon request
38 to the Franchise Tax Board.

39 (d) (1) For purposes of this section:

1 (A) All employees of all corporations which are members of
2 the same controlled group of corporations shall be treated as
3 employed by a single qualified taxpayer.

4 (B) The credit, if any, allowable by this section with respect to
5 each trade or business shall be determined by reference to its
6 proportionate share of the expense of the qualified wages giving
7 rise to the credit, and shall be allocated in that manner.

8 (C) For purposes of this subdivision, “controlled group of
9 corporations” means “controlled group of corporations” as defined
10 in Section 1563(a) of the Internal Revenue Code, except that:

11 (i) “More than 50 percent” shall be substituted for “at least 80
12 percent” each place it appears in Section 1563 (a)(1) of the Internal
13 Revenue Code.

14 (ii) The determination shall be made without regard to Sections
15 1563 (a)(4) and (e)(3)(c) of the Internal Revenue Code.

16 (2) If an employer acquires the major portion of a trade or
17 business of another employer (hereinafter in this paragraph referred
18 to as the “predecessor”) or the major portion of a separate unit of
19 a trade or business of a predecessor, then, for purposes of applying
20 this section, other than subdivision (e), for any calendar year ending
21 after that acquisition, the employment relationship between a
22 qualified employee and an employer shall not be treated as
23 terminated if the employee continues to be employed in that trade
24 or business.

25 (e) (1) (A) If the employment, other than seasonal employment,
26 of any qualified employee, with respect to whom qualified wages
27 are taken into account under subdivision (a) is terminated by the
28 qualified taxpayer at any time during the first 270 days of that
29 employment, whether or not consecutive, or before the close of
30 the 270th calendar day after the day in which that employee
31 completes 90 days of employment with the qualified taxpayer, the
32 tax imposed by this part for the taxable year in which that
33 employment is terminated shall be increased by an amount equal
34 to the credit allowed under subdivision (a) for that taxable year
35 and all prior taxable years attributable to qualified wages paid or
36 incurred with respect to that employee.

37 (B) If the seasonal employment of any qualified employee, with
38 respect to whom qualified wages are taken into account under
39 subdivision (a) is not continued by the qualified taxpayer for a
40 period of 270 days of employment during the 60-month period

beginning with the day the qualified employee commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee. If the employer is located in an area where a state of disaster has been declared, a qualified employee has 360 additional days of nonemployment for purposes of determining his or her status as a “qualified employee,” as defined in this section.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in

1 subparagraph (B) of paragraph (1), becomes disabled and unable
2 to perform the services of that seasonal employment, unless that
3 disability is removed before the close of that period and the
4 qualified taxpayer fails to offer seasonal employment to that
5 qualified employee.

6 (iii) A failure to continue the seasonal employment of a qualified
7 employee, if it is determined that the failure to continue the
8 seasonal employment was due to the misconduct (as defined in
9 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
10 Code of Regulations) of that qualified employee.

11 (iv) A failure to continue seasonal employment of a qualified
12 employee due to a substantial reduction in the regular seasonal
13 trade or business operations of the qualified taxpayer.

14 (v) A failure to continue the seasonal employment of a qualified
15 employee, if that qualified employee is replaced by other qualified
16 employees so as to create a net increase in both the number of
17 seasonal employees and the hours of seasonal employment.

18 (C) For purposes of paragraph (1), the employment relationship
19 between the qualified taxpayer and a qualified employee shall not
20 be treated as terminated by either of the following:

21 (i) By a transaction to which Section 381(a) of the Internal
22 Revenue Code applies, if the qualified employee continues to be
23 employed by the acquiring corporation.

24 (ii) By reason of a mere change in the form of conducting the
25 trade or business of the qualified taxpayer, if the qualified
26 employee continues to be employed in that trade or business and
27 the qualified taxpayer retains a substantial interest in the trade or
28 business.

29 (3) Any increase in tax under paragraph (1) shall not be treated
30 as tax imposed by this part for purposes of determining the amount
31 of any credit allowable under this part.

32 (f) Rules similar to the rules provided in Section 46(e) and (h)
33 of the Internal Revenue Code shall apply to both the following:

34 (1) An organization to which Section 593 of the Internal
35 Revenue Code applies.

36 (2) A regulated investment company or a real estate investment
37 trust subject to taxation under this part.

38 (g) (1) The credit allowable under this section shall be reduced
39 by the federal credit allowed under Section 51 of the Internal
40 Revenue Code.

1 (2) Any deduction otherwise allowed under this part for the
2 wages or salaries paid or incurred by the qualified taxpayer upon
3 which the credit is based shall be reduced by the amount of the
4 credit, prior to any reduction required by subdivision (h) or (i).

5 (h) In the case where the credit otherwise allowed under this
6 section exceeds the “tax” for the taxable year, that portion of the
7 credit that exceeds the “tax” may be carried over and added to the
8 credit, if any, in succeeding taxable years, until the credit is
9 exhausted. The credit shall be applied first to the earliest taxable
10 years possible.

11 (i) (1) The amount of the credit otherwise allowed under this
12 section and Sections 23612.2, 23633, and 23645, including any
13 credit carryover from prior years, that may reduce the “tax” for
14 the taxable year shall not exceed the amount of tax which would
15 be imposed on the qualified taxpayer’s business income attributable
16 to the geographically targeted economic development area
17 determined as if that attributable income represented all of the
18 income of the qualified taxpayer subject to tax under this part.

19 (2) *After the application of the limitation specified in paragraph*
20 *(1), the amount of credit allowed under this section for the taxable*
21 *year shall be further reduced by the amount of any credit*
22 *carryovers that are allowed under former Sections 23622.7,*
23 *23622.8, 23634, and 23646 for the same taxable year.*

24 ~~(2)~~

25 (3) Attributable income shall be that portion of the qualified
26 taxpayer’s California source business income that is apportioned
27 to the geographically targeted economic development area. For
28 that purpose, the qualified taxpayer’s business income attributable
29 to sources in this state first shall be determined in accordance with
30 Chapter 17 (commencing with Section 25101) of Part 11. That
31 business income shall be further apportioned to the geographically
32 targeted economic development area in accordance with Article
33 2 (commencing with Section 25120) of Chapter 17 of Part 11,
34 modified for purposes of this section in accordance with paragraph
35 (3).

36 ~~(3)~~

37 (4) Business income shall be apportioned to the geographically
38 targeted economic development area by multiplying the total
39 California business income of the qualified taxpayer by a fraction,
40 the numerator of which is the property factor plus the payroll factor,

1 and the denominator of which is two. For purposes of this
2 paragraph:

3 (A) The property factor is a fraction, the numerator of which is
4 the average value of the qualified taxpayer's real and tangible
5 personal property owned or rented and used in the geographically
6 targeted economic development area during the taxable year, and
7 the denominator of which is the average value of all the qualified
8 taxpayer's real and tangible personal property owned or rented
9 and used in this state during the taxable year.

10 (B) The payroll factor is a fraction, the numerator of which is
11 the total amount paid by the qualified taxpayer in the
12 geographically targeted economic development area during the
13 taxable year for compensation, and the denominator of which is
14 the total compensation paid by the qualified taxpayer in this state
15 during the taxable year.

16 ~~(4)~~

17 (5) The portion of any credit remaining, if any, after application
18 of this subdivision, shall be carried over to succeeding taxable
19 years, as if it were an amount exceeding the "tax" for the taxable
20 year, as provided in subdivision (h).

21 (j) The credit allowed to a qualified taxpayer pursuant to this
22 section shall be known and may be cited as the Enterprise Zone
23 Credit.

24 ~~SEC. 9.~~

25 *SEC. 11.* Section 23634 of the Revenue and Taxation Code is
26 amended to read:

27 23634. (a) For each taxable year beginning on or after January
28 1, 1998, there shall be allowed a credit against the "tax" (as defined
29 by Section 23036) to a qualified taxpayer who employs a qualified
30 employee in a targeted tax area during the taxable year. The credit
31 shall be equal to the sum of each of the following:

32 (1) Fifty percent of qualified wages in the first year of
33 employment.

34 (2) Forty percent of qualified wages in the second year of
35 employment.

36 (3) Thirty percent of qualified wages in the third year of
37 employment.

38 (4) Twenty percent of qualified wages in the fourth year of
39 employment.

1 (5) Ten percent of qualified wages in the fifth year of
2 employment.

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

5 (A) That portion of wages paid or incurred by the qualified
6 taxpayer during the taxable year to qualified employees that does
7 not exceed 150 percent of the minimum wage.

8 (B) Wages received during the 60-month period beginning with
9 the first day the employee commences employment with the
10 qualified taxpayer. Reemployment in connection with any increase,
11 including a regularly occurring seasonal increase, in the trade or
12 business operations of the qualified taxpayer does not constitute
13 commencement of employment for purposes of this section.

14 (C) Qualified wages do not include any wages paid or incurred
15 by the qualified taxpayer on or after the targeted tax area expiration
16 date. However, wages paid or incurred with respect to qualified
17 employees who are employed by the qualified taxpayer within the
18 targeted tax area within the 60-month period prior to the targeted
19 tax area expiration date shall continue to qualify for the credit
20 under this section after the targeted tax area expiration date, in
21 accordance with all provisions of this section applied as if the
22 targeted tax area designation were still in existence and binding.

23 (2) “Minimum wage” means the wage established by the
24 Industrial Welfare Commission as provided for in Chapter 1
25 (commencing with Section 1171) of Part 4 of Division 2 of the
26 Labor Code.

27 (3) “Targeted tax area expiration date” means the date the
28 targeted tax area designation expires, is revoked, is no longer
29 binding, or becomes inoperative.

30 (4) (A) “Qualified employee” means an individual who meets
31 all of the following requirements:

32 (i) At least 90 percent of his or her services for the qualified
33 taxpayer during the taxable year are directly related to the conduct
34 of the qualified taxpayer’s trade or business located in a targeted
35 tax area.

36 (ii) Performs at least 50 percent of his or her services for the
37 qualified taxpayer during the taxable year in a targeted tax area.

38 (iii) Is hired by the qualified taxpayer after the date of original
39 designation of the area in which services were performed as a
40 targeted tax area.

1 (iv) Is any of the following:

2 (I) Immediately preceding the qualified employee's
3 commencement of employment with the qualified taxpayer, was
4 a person eligible for services under the federal Job Training
5 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
6 who is receiving, or is eligible to receive, subsidized employment,
7 training, or services funded by the federal Job Training Partnership
8 Act, or its successor.

9 (II) Immediately preceding the qualified employee's
10 commencement of employment with the qualified taxpayer, was
11 a person eligible to be a voluntary or mandatory registrant under
12 the Greater Avenues for Independence Act of 1985 (GAIN)
13 provided for pursuant to Article 3.2 (commencing with Section
14 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
15 Institutions Code, or its successor.

16 (III) Immediately preceding the qualified employee's
17 commencement of employment with the qualified taxpayer, was
18 an economically disadvantaged individual 14 years of age or older.

19 (IV) Immediately preceding the qualified employee's
20 commencement of employment with the qualified taxpayer, was
21 a dislocated worker who meets any of the following:

22 ~~(aa)~~

23 *(ia)* Has been terminated or laid off or who has received a notice
24 of termination or layoff from employment, is eligible for or has
25 exhausted entitlement to unemployment insurance benefits, and
26 is unlikely to return to his or her previous industry or occupation.

27 ~~(bb)~~

28 *(ib)* Has been terminated or has received a notice of termination
29 of employment as a result of any permanent closure or any
30 substantial layoff at a plant, facility, or enterprise, including an
31 individual who has not received written notification but whose
32 employer has made a public announcement of the closure or layoff.

33 ~~(ee)~~

34 *(ic)* Is long-term unemployed and has limited opportunities for
35 employment or reemployment in the same or a similar occupation
36 in the area in which the individual resides, including an individual
37 55 years of age or older who may have substantial barriers to
38 employment by reason of age.

39 ~~(dd)~~

1 (*id*) Was self-employed (including farmers and ranchers) and
2 is unemployed as a result of general economic conditions in the
3 community in which he or she resides or because of natural
4 disasters.

5 ~~(ee)~~

6 (*ie*) Was a civilian employee of the Department of Defense
7 employed at a military installation being closed or realigned under
8 the Defense Base Closure and Realignment Act of 1990.

9 ~~(ff)~~

10 (*if*) Was an active member of the Armed Forces or National
11 Guard as of September 30, 1990, and was either involuntarily
12 separated or separated pursuant to a special benefits program.

13 ~~(gg)~~

14 (*ig*) Is a seasonal or migrant worker who experiences chronic
15 seasonal unemployment and underemployment in the agriculture
16 industry, aggravated by continual advancements in technology and
17 mechanization.

18 ~~(hh)~~

19 (*ih*) Has been terminated or laid off, or has received a notice of
20 termination or layoff, as a consequence of compliance with the
21 Clean Air Act.

22 (V) Immediately preceding the qualified employee's
23 commencement of employment with the qualified taxpayer, was
24 a disabled individual who is eligible for or enrolled in, or has
25 completed a state rehabilitation plan or is a service-connected
26 disabled veteran, veteran of the Vietnam era, or veteran who is
27 recently separated from military service.

28 (VI) Immediately preceding the qualified employee's
29 commencement of employment with the qualified taxpayer, was
30 an ex-offender. An individual shall be treated as convicted if he
31 or she was placed on probation by a state court without a finding
32 of guilt.

33 (VII) Immediately preceding the qualified employee's
34 commencement of employment with the qualified taxpayer, was
35 a person eligible for or a recipient of any of the following:

36 ~~(aa)~~

37 (*ia*) Federal Supplemental Security Income benefits.

38 ~~(bb)~~

39 (*ib*) Aid to Families with Dependent Children.

40 ~~(ee)~~

1 ~~(ic)~~ Food stamps.

2 ~~(dd)~~

3 ~~(id)~~ State and local general assistance.

4 (VIII) Immediately preceding the qualified employee's
5 commencement of employment with the qualified taxpayer, was
6 a member of a federally recognized Indian tribe, band, or other
7 group of Native American descent.

8 (IX) Immediately preceding the qualified employee's
9 commencement of employment with the qualified taxpayer, was
10 a resident of a targeted tax area.

11 (X) Immediately preceding the qualified employee's
12 commencement of employment with the taxpayer, was a member
13 of a targeted group, as defined in Section 51(d) of the Internal
14 Revenue Code, or its successor.

15 (B) Priority for employment shall be provided to an individual
16 who is enrolled in a qualified program under the federal Job
17 Training Partnership Act or the Greater Avenues for Independence
18 Act of 1985 or who is eligible as a member of a targeted group
19 under the Work Opportunity Tax Credit (Section 51 of the Internal
20 Revenue Code), or its successor.

21 (5) (A) "Qualified taxpayer" means a person or entity that meets
22 both of the following:

23 (i) Is engaged in a trade or business within a targeted tax area
24 designated pursuant to Chapter 12.93 (commencing with Section
25 7097) of Division 7 of Title 1 of the Government Code.

26 (ii) Is engaged in those lines of business described in Codes
27 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
28 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
29 of the Standard Industrial Classification (SIC) Manual published
30 by the United States Office of Management and Budget, 1987
31 edition.

32 (B) In the case of any passthrough entity, the determination of
33 whether a taxpayer is a qualified taxpayer under this section shall
34 be made at the entity level and any credit under this section or
35 Section 17053.34 shall be allowed to the passthrough entity and
36 passed through to the partners or shareholders in accordance with
37 applicable provisions of this part or Part 10 (commencing with
38 Section 17001). For purposes of this subparagraph, the term
39 "passthrough entity" means any partnership or "S" corporation.

1 (6) “Seasonal employment” means employment by a qualified
2 taxpayer that has regular and predictable substantial reductions in
3 trade or business operations.

4 (c) If the qualified taxpayer is allowed a credit for qualified
5 wages pursuant to this section, only one credit shall be allowed to
6 the taxpayer under this part with respect to those qualified wages.

7 (d) The qualified taxpayer shall do both of the following:

8 (1) Obtain from the Employment Development Department, as
9 permitted by federal law, the local county or city Job Training
10 Partnership Act administrative entity, the local county GAIN office
11 or social services agency, or the local government administering
12 the targeted tax area, a certification that provides that a qualified
13 employee meets the eligibility requirements specified in clause
14 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
15 Employment Development Department may provide preliminary
16 screening and referral to a certifying agency. The Department of
17 Housing and Community Development shall develop regulations
18 for the issuance of certificates pursuant to subdivision (g) of
19 Section 7097 of the Government Code, and shall develop forms
20 for this purpose.

21 (2) Retain a copy of the certification and provide it upon request
22 to the Franchise Tax Board.

23 (e) (1) For purposes of this section:

24 (A) All employees of all corporations that are members of the
25 same controlled group of corporations shall be treated as employed
26 by a single taxpayer.

27 (B) The credit, if any, allowable by this section to each member
28 shall be determined by reference to its proportionate share of the
29 expense of the qualified wages giving rise to the credit, and shall
30 be allocated in that manner.

31 (C) For purposes of this subdivision, “controlled group of
32 corporations” means “controlled group of corporations” as defined
33 in Section 1563(a) of the Internal Revenue Code, except that:

34 (i) “More than 50 percent” shall be substituted for “at least 80
35 percent” each place it appears in Section 1563(a)(1) of the Internal
36 Revenue Code.

37 (ii) The determination shall be made without regard to Sections
38 1563 (a)(4) and (e)(3)(C) of the Internal Revenue Code.

39 (2) If an employer acquires the major portion of a trade or
40 business of another employer (hereinafter in this paragraph referred

1 to as the “predecessor”) or the major portion of a separate unit of
2 a trade or business of a predecessor, then, for purposes of applying
3 this section (other than subdivision (f)) for any calendar year ending
4 after that acquisition, the employment relationship between a
5 qualified employee and an employer shall not be treated as
6 terminated if the employee continues to be employed in that trade
7 or business.

8 (f) (1) (A) If the employment, other than seasonal employment,
9 of any qualified employee with respect to whom qualified wages
10 are taken into account under subdivision (a) is terminated by the
11 qualified taxpayer at any time during the first 270 days of that
12 employment (whether or not consecutive) or before the close of
13 the 270th calendar day after the day in which that employee
14 completes 90 days of employment with the qualified taxpayer, the
15 tax imposed by this part for the taxable year in which that
16 employment is terminated shall be increased by an amount equal
17 to the credit allowed under subdivision (a) for that taxable year
18 and all prior taxable years attributable to qualified wages paid or
19 incurred with respect to that employee.

20 (B) If the seasonal employment of any qualified employee, with
21 respect to whom qualified wages are taken into account under
22 subdivision (a) is not continued by the qualified taxpayer for a
23 period of 270 days of employment during the 60-month period
24 beginning with the day the qualified employee commences seasonal
25 employment with the qualified taxpayer, the tax imposed by this
26 part, for the taxable year that includes the 60th month following
27 the month in which the qualified employee commences seasonal
28 employment with the qualified taxpayer, shall be increased by an
29 amount equal to the credit allowed under subdivision (a) for that
30 taxable year and all prior taxable years attributable to qualified
31 wages paid or incurred with respect to that qualified employee.

32 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
33 any of the following:

34 (i) A termination of employment of a qualified employee who
35 voluntarily leaves the employment of the qualified taxpayer.

36 (ii) A termination of employment of a qualified employee who,
37 before the close of the period referred to in subparagraph (A) of
38 paragraph (1), becomes disabled and unable to perform the services
39 of that employment, unless that disability is removed before the

1 close of that period and the qualified taxpayer fails to offer
2 reemployment to that employee.

3 (iii) A termination of employment of a qualified employee, if
4 it is determined that the termination was due to the misconduct (as
5 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
6 the California Code of Regulations) of that employee.

7 (iv) A termination of employment of a qualified employee due
8 to a substantial reduction in the trade or business operations of the
9 taxpayer.

10 (v) A termination of employment of a qualified employee, if
11 that employee is replaced by other qualified employees so as to
12 create a net increase in both the number of employees and the
13 hours of employment.

14 (B) Subparagraph (B) of paragraph (1) shall not apply to any
15 of the following:

16 (i) A failure to continue the seasonal employment of a qualified
17 employee who voluntarily fails to return to the seasonal
18 employment of the qualified taxpayer.

19 (ii) A failure to continue the seasonal employment of a qualified
20 employee who, before the close of the period referred to in
21 subparagraph (B) of paragraph (1), becomes disabled and unable
22 to perform the services of that seasonal employment, unless that
23 disability is removed before the close of that period and the
24 qualified taxpayer fails to offer seasonal employment to that
25 qualified employee.

26 (iii) A failure to continue the seasonal employment of a qualified
27 employee, if it is determined that the failure to continue the
28 seasonal employment was due to the misconduct (as defined in
29 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
30 Code of Regulations) of that qualified employee.

31 (iv) A failure to continue seasonal employment of a qualified
32 employee due to a substantial reduction in the regular seasonal
33 trade or business operations of the qualified taxpayer.

34 (v) A failure to continue the seasonal employment of a qualified
35 employee, if that qualified employee is replaced by other qualified
36 employees so as to create a net increase in both the number of
37 seasonal employees and the hours of seasonal employment.

38 (C) For purposes of paragraph (1), the employment relationship
39 between the qualified taxpayer and a qualified employee shall not
40 be treated as terminated by either of the following:

1 (i) By a transaction to which Section 381(a) of the Internal
2 Revenue Code applies, if the qualified employee continues to be
3 employed by the acquiring corporation.

4 (ii) By reason of a mere change in the form of conducting the
5 trade or business of the qualified taxpayer, if the qualified
6 employee continues to be employed in that trade or business and
7 the qualified taxpayer retains a substantial interest in that trade or
8 business.

9 (3) Any increase in tax under paragraph (1) shall not be treated
10 as tax imposed by this part for purposes of determining the amount
11 of any credit allowable under this part.

12 (g) Rules similar to the rules provided in Sections 46(e) and (h)
13 of the Internal Revenue Code shall apply to both of the following:

14 (1) An organization to which Section 593 of the Internal
15 Revenue Code applies.

16 (2) A regulated investment company or a real estate investment
17 trust subject to taxation under this part.

18 (h) For purposes of this section, “targeted tax area” means an
19 area designated pursuant to Chapter 12.93 (commencing with
20 Section 7097) of Division 7 of Title 1 of the Government Code.

21 (i) In the case where the credit otherwise allowed under this
22 section exceeds the “tax” for the taxable year, that portion of the
23 credit that exceeds the “tax” may be carried over and added to the
24 credit, if any, in succeeding taxable years, until the credit is
25 exhausted. The credit shall be applied first to the earliest taxable
26 years possible.

27 (j) (1) The amount of the credit otherwise allowed under this
28 section and Section 23633, including any credit carryover from
29 prior years, that may reduce the “tax” for the taxable year shall
30 not exceed the amount of tax that would be imposed on the
31 qualified taxpayer’s business income attributable to the targeted
32 tax area determined as if that attributable income represented all
33 of the income of the qualified taxpayer subject to tax under this
34 part.

35 (2) Attributable income shall be that portion of the taxpayer’s
36 California source business income that is apportioned to the
37 targeted tax area. For that purpose, the taxpayer’s business income
38 attributable to sources in this state first shall be determined in
39 accordance with Chapter 17 (commencing with Section 25101).
40 That business income shall be further apportioned to the targeted

1 tax area in accordance with Article 2 (commencing with Section
2 25120) of Chapter 17, modified for purposes of this section in
3 accordance with paragraph (3).

4 (3) Business income shall be apportioned to the targeted tax
5 area by multiplying the total California business income of the
6 taxpayer by a fraction, the numerator of which is the property
7 factor plus the payroll factor, and the denominator of which is two.
8 For purposes of this paragraph:

9 (A) The property factor is a fraction, the numerator of which is
10 the average value of the taxpayer's real and tangible personal
11 property owned or rented and used in the targeted tax area during
12 the taxable year, and the denominator of which is the average value
13 of all the taxpayer's real and tangible personal property owned or
14 rented and used in this state during the taxable year.

15 (B) The payroll factor is a fraction, the numerator of which is
16 the total amount paid by the taxpayer in the targeted tax area during
17 the taxable year for compensation, and the denominator of which
18 is the total compensation paid by the taxpayer in this state during
19 the taxable year.

20 (4) The portion of any credit remaining, if any, after application
21 of this subdivision, shall be carried over to succeeding taxable
22 years, as if it were an amount exceeding the "tax" for the taxable
23 year, as provided in subdivision (h).

24 (5) In the event that a credit carryover is allowable under
25 subdivision (h) for any taxable year after the targeted tax area
26 designation has expired or been revoked, the targeted tax area shall
27 be deemed to remain in existence for purposes of computing the
28 limitation specified in this subdivision.

29 (k) (1) The credit authorized by this section shall not be allowed
30 on or after January 1, 2008.

31 (2) On or after January 1, 2008, taxpayers that would otherwise
32 be eligible to claim a credit authorized by this section may claim
33 a credit for these expenses under Section 23622.9.

34 (3) Notwithstanding this subdivision, the provisions of
35 ~~subdivision (f) of Section 23036 shall apply with respect to any~~
36 ~~remaining carryover of the credit previously authorized by this~~
37 ~~section.~~ *subdivision (f) of Section 23036 shall apply to allow*
38 *carryover of credits previously authorized by this section to taxable*
39 *years beginning on or after January 1, 2008.*

1 ~~SEC. 10.~~

2 *SEC. 12.* Section 23646 of the Revenue and Taxation Code is
3 amended to read:

4 23646. (a) For each taxable year beginning on or after January
5 1, 1995, there shall be allowed as a credit against the “tax” (as
6 defined in Section 23036) to a qualified taxpayer for hiring a
7 qualified disadvantaged individual or a qualified displaced
8 employee during the taxable year for employment in the LAMBRA.
9 The credit shall be equal to the sum of each of the following:

10 (1) Fifty percent of the qualified wages in the first year of
11 employment.

12 (2) Forty percent of the qualified wages in the second year of
13 employment.

14 (3) Thirty percent of the qualified wages in the third year of
15 employment.

16 (4) Twenty percent of the qualified wages in the fourth year of
17 employment.

18 (5) Ten percent of the qualified wages in the fifth year of
19 employment.

20 (b) For purposes of this section:

21 (1) “Qualified wages” means:

22 (A) That portion of wages paid or incurred by the employer
23 during the taxable year to qualified disadvantaged individuals or
24 qualified displaced employees that does not exceed 150 percent
25 of the minimum wage.

26 (B) The total amount of qualified wages which may be taken
27 into account for purposes of claiming the credit allowed under this
28 section shall not exceed two million dollars (\$2,000,000) per
29 taxable year.

30 (C) Wages received during the 60-month period beginning with
31 the first day the individual commences employment with the
32 taxpayer. Reemployment in connection with any increase, including
33 a regularly occurring seasonal increase, in the trade or business
34 operation of the qualified taxpayer does not constitute
35 commencement of employment for purposes of this section.

36 (D) Qualified wages do not include any wages paid or incurred
37 by the qualified taxpayer on or after the LAMBRA expiration date.
38 However, wages paid or incurred with respect to qualified
39 disadvantaged individuals or qualified displaced employees who
40 are employed by the qualified taxpayer within the LAMBRA within

1 the 60-month period prior to the LAMBRA expiration date shall
2 continue to qualify for the credit under this section after the
3 LAMBRA expiration date, in accordance with all provisions of
4 this section applied as if the LAMBRA designation were still in
5 existence and binding.

6 (2) “Minimum wage” means the wage established by the
7 Industrial Welfare Commission as provided for in Chapter 1
8 (commencing with Section 1171) of Part 4 of Division 2 of the
9 Labor Code.

10 (3) “LAMBRA” means a local agency military base recovery
11 area designated in accordance with the provisions of Section 7114
12 of the Government Code.

13 (4) “Qualified disadvantaged individual” means an individual
14 who satisfies all of the following requirements:

15 (A) (i) At least 90 percent of whose services for the taxpayer
16 during the taxable year are directly related to the conduct of the
17 taxpayer’s trade or business located in a LAMBRA.

18 (ii) Who performs at least 50 percent of his or her services for
19 the taxpayer during the taxable year in the LAMBRA.

20 (B) Who is hired by the employer after the designation of the
21 area as a LAMBRA in which the individual’s services were
22 primarily performed.

23 (C) Who is any of the following immediately preceding the
24 individual’s commencement of employment with the taxpayer:

25 (i) An individual who has been determined eligible for services
26 under the federal Job Training Partnership Act (29 U.S.C. Sec.
27 1501 et seq.), or its successor.

28 (ii) Any voluntary or mandatory registrant under the Greater
29 Avenues for Independence Act of 1985 provided for pursuant to
30 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
31 3 of Division 9 of the Welfare and Institutions Code.

32 (iii) An economically disadvantaged individual age 16 years or
33 older.

34 (iv) A dislocated worker who meets any of the following
35 conditions:

36 (I) Has been terminated or laid off or who has received a notice
37 of termination or layoff from employment, is eligible for or has
38 exhausted entitlement to unemployment insurance benefits, and
39 is unlikely to return to his or her previous industry or occupation.

1 (II) Has been terminated or has received a notice of termination
2 of employment as a result of any permanent closure or any
3 substantial layoff at a plant, facility, or enterprise, including an
4 individual who has not received written notification but whose
5 employer has made a public announcement of the closure or layoff.

6 (III) Is long-term unemployed and has limited opportunities for
7 employment or reemployment in the same or a similar occupation
8 in the area in which the individual resides, including an individual
9 55 years of age or older who may have substantial barriers to
10 employment by reason of age.

11 (IV) Was self-employed (including farmers and ranchers) and
12 is unemployed as a result of general economic conditions in the
13 community in which he or she resides or because of natural
14 disasters.

15 (V) Was a civilian employee of the Department of Defense
16 employed at a military installation being closed or realigned under
17 the Defense Base Closure and Realignment Act of 1990.

18 (VI) Was an active member of the Armed Forces or National
19 Guard as of September 30, 1990, and was either involuntarily
20 separated or separated pursuant to a special benefits program.

21 (VII) Experiences chronic seasonal unemployment and
22 underemployment in the agriculture industry, aggravated by
23 continual advancements in technology and mechanization.

24 (VIII) Has been terminated or laid off or has received a notice
25 of termination or layoff as a consequence of compliance with the
26 Clean Air Act.

27 (v) An individual who is enrolled in or has completed a state
28 rehabilitation plan or is a service-connected disabled veteran,
29 veteran of the Vietnam era, or veteran who is recently separated
30 from military service.

31 (vi) An ex-offender. An individual shall be treated as convicted
32 if he or she was placed on probation by a state court without a
33 finding of guilty.

34 (vii) A recipient of:

35 (I) Federal Supplemental Security Income benefits.

36 (II) Aid to Families with Dependent Children.

37 (III) Food stamps.

38 (IV) State and local general assistance.

39 (viii) Is a member of a federally recognized Indian tribe, band,
40 or other group of Native American descent.

1 (5) “Qualified taxpayer” means a corporation that conducts a
2 trade or business within a LAMBRA and, for the first two taxable
3 years, has a net increase in jobs (defined as 2,000 paid hours per
4 employee per year) of one or more employees as determined below
5 in the LAMBRA.

6 (A) The net increase in the number of jobs shall be determined
7 by subtracting the total number of full-time employees (defined
8 as 2,000 paid hours per employee per year) the taxpayer employed
9 in this state in the taxable year prior to commencing business
10 operations in the LAMBRA from the total number of full-time
11 employees the taxpayer employed in this state during the second
12 taxable year after commencing business operations in the
13 LAMBRA. For taxpayers who commence doing business in this
14 state with their LAMBRA business operation, the number of
15 employees for the taxable year prior to commencing business
16 operations in the LAMBRA shall be zero. If the taxpayer has a net
17 increase in jobs in the state, the credit shall be allowed only if one
18 or more full-time employees is employed within the LAMBRA.

19 (B) The total number of employees employed in the LAMBRA
20 shall equal the sum of both of the following:

21 (i) The total number of hours worked in the LAMBRA for the
22 taxpayer by employees (not to exceed 2,000 hours per employee)
23 who are paid an hourly wage divided by 2,000.

24 (ii) The total number of months worked in the LAMBRA for
25 the taxpayer by employees who are salaried employees divided
26 by 12.

27 (C) In the case of a qualified taxpayer that first commences
28 doing business in the LAMBRA during the taxable year, for
29 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
30 the divisors “2,000” and “12” shall be multiplied by a fraction, the
31 numerator of which is the number of months of the taxable year
32 that the taxpayer was doing business in the LAMBRA and the
33 denominator of which is 12.

34 (6) “Qualified displaced employee” means an individual who
35 satisfies all of the following requirements:

36 (A) Any civilian or military employee of a base or former base
37 that has been displaced as a result of a federal base closure act.

38 (B) (i) At least 90 percent of whose services for the taxpayer
39 during the taxable year are directly related to the conduct of the
40 taxpayer’s trade or business located in a LAMBRA.

1 (ii) Who performs at least 50 percent of his or her services for
2 the taxpayer during the taxable year in a LAMBRA.

3 (C) Who is hired by the employer after the designation of the
4 area in which services were performed as a LAMBRA.

5 (7) “Seasonal employment” means employment by a qualified
6 taxpayer that has regular and predictable substantial reductions in
7 trade or business operations.

8 (8) “LAMBRA expiration date” means the date the LAMBRA
9 designation expires, is no longer binding, or becomes inoperative.

10 (c) For qualified disadvantaged individuals or qualified displaced
11 employees hired on or after January 1, 2001, the taxpayer shall do
12 both of the following:

13 (1) Obtain from the Employment Development Department, as
14 permitted by federal law, the administrative entity of the local
15 county or city for the federal Job Training Partnership Act, or its
16 successor, the local county GAIN office or social services agency,
17 or the local government administering the LAMBRA, a
18 certification that provides that a qualified disadvantaged individual
19 or qualified displaced employee meets the eligibility requirements
20 specified in subparagraph (C) of paragraph (4) of subdivision (b)
21 or subparagraph (A) of paragraph (6) of subdivision (b). The
22 Employment Development Department may provide preliminary
23 screening and referral to a certifying agency. The Department of
24 Housing and Community Development shall develop regulations
25 governing the issuance of certificates pursuant to Section 7114.2
26 of the Government Code and shall develop forms for this purpose.

27 (2) Retain a copy of the certification and provide it upon request
28 to the Franchise Tax Board.

29 (d) (1) For purposes of this section, both of the following apply:

30 (A) All employees of all corporations that are members of the
31 same controlled group of corporations shall be treated as employed
32 by a single employer.

33 (B) The credit (if any) allowable by this section to each member
34 shall be determined by reference to its proportionate share of the
35 qualified wages giving rise to the credit.

36 (2) For purposes of this subdivision, “controlled group of
37 corporations” has the meaning given to that term by Section
38 1563(a) of the Internal Revenue Code, except that both of the
39 following apply:

1 (A) “More than 50 percent” shall be substituted for “at least 80
2 percent” each place it appears in Section 1563(a)(1) of the Internal
3 Revenue Code.

4 (B) The determination shall be made without regard to Sections
5 1563(a)(4) and (e)(3)(C) of the Internal Revenue Code.

6 (3) If an employer acquires the major portion of a trade or
7 business of another employer (hereinafter in this paragraph referred
8 to as the “predecessor”) or the major portion of a separate unit of
9 a trade or business of a predecessor, then, for purposes of applying
10 this section (other than subdivision (e)) for any calendar year
11 ending after that acquisition, the employment relationship between
12 an employee and an employer shall not be treated as terminated if
13 the employee continues to be employed in that trade or business.

14 (e) (1) (A) If the employment of any employee, other than
15 seasonal employment, with respect to whom qualified wages are
16 taken into account under subdivision (a) is terminated by the
17 taxpayer at any time during the first 270 days of that employment
18 (whether or not consecutive) or before the close of the 270th
19 calendar day after the day in which that employee completes 90
20 days of employment with the taxpayer, the tax imposed by this
21 part for the taxable year in which that employment is terminated
22 shall be increased by an amount equal to the credit allowed under
23 subdivision (a) for that taxable year and all prior income years
24 attributable to qualified wages paid or incurred with respect to that
25 employee.

26 (B) If the seasonal employment of any qualified disadvantaged
27 individual, with respect to whom qualified wages are taken into
28 account under subdivision (a) is not continued by the qualified
29 taxpayer for a period of 270 days of employment during the
30 60-month period beginning with the day the qualified
31 disadvantaged individual commences seasonal employment with
32 the qualified taxpayer, the tax imposed by this part, for the taxable
33 year that includes the 60th month following the month in which
34 the qualified disadvantaged individual commences seasonal
35 employment with the qualified taxpayer, shall be increased by an
36 amount equal to the credit allowed under subdivision (a) for that
37 taxable year and all prior taxable years attributable to qualified
38 wages paid or incurred with respect to that qualified disadvantaged
39 individual.

1 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
2 any of the following:

3 (i) A termination of employment of an employee who voluntarily
4 leaves the employment of the taxpayer.

5 (ii) A termination of employment of an individual who, before
6 the close of the period referred to in paragraph (1), becomes
7 disabled to perform the services of that employment, unless that
8 disability is removed before the close of that period and the
9 taxpayer fails to offer reemployment to that individual.

10 (iii) A termination of employment of an individual, if it is
11 determined that the termination was due to the misconduct (as
12 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
13 the California Code of Regulations) of that individual.

14 (iv) A termination of employment of an individual due to a
15 substantial reduction in the trade or business operations of the
16 taxpayer.

17 (v) A termination of employment of an individual, if that
18 individual is replaced by other qualified employees so as to create
19 a net increase in both the number of employees and the hours of
20 employment.

21 (B) Subparagraph (B) of paragraph (1) shall not apply to any
22 of the following:

23 (i) A failure to continue the seasonal employment of a qualified
24 disadvantaged individual who voluntarily fails to return to the
25 seasonal employment of the qualified taxpayer.

26 (ii) A failure to continue the seasonal employment of a qualified
27 disadvantaged individual who, before the close of the period
28 referred to in subparagraph (B) of paragraph (1), becomes disabled
29 and unable to perform the services of that seasonal employment,
30 unless that disability is removed before the close of that period
31 and the qualified taxpayer fails to offer seasonal employment to
32 that qualified disadvantaged individual.

33 (iii) A failure to continue the seasonal employment of a qualified
34 disadvantaged individual, if it is determined that the failure to
35 continue the seasonal employment was due to the misconduct (as
36 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
37 the California Code of Regulations) of that individual.

38 (iv) A failure to continue seasonal employment of a qualified
39 disadvantaged individual due to a substantial reduction in the

1 regular seasonal trade or business operations of the qualified
2 taxpayer.

3 (v) A failure to continue the seasonal employment of a qualified
4 disadvantaged individual, if that individual is replaced by other
5 qualified disadvantaged individuals so as to create a net increase
6 in both the number of seasonal employees and the hours of seasonal
7 employment.

8 (C) For purposes of paragraph (1), the employment relationship
9 between the taxpayer and an employee shall not be treated as
10 terminated by either of the following:

11 (i) A transaction to which Section 381(a) of the Internal Revenue
12 Code applies, if the employee continues to be employed by the
13 acquiring corporation.

14 (ii) A mere change in the form of conducting the trade or
15 business of the taxpayer, if the employee continues to be employed
16 in that trade or business and the taxpayer retains a substantial
17 interest in that trade or business.

18 (3) Any increase in tax under paragraph (1) shall not be treated
19 as tax imposed by this part for purposes of determining the amount
20 of any credit allowable under this part.

21 (4) At the close of the second taxable year, if the taxpayer has
22 not increased the number of its employees as determined by
23 paragraph (5) of subdivision (b), then the amount of the credit
24 previously claimed shall be added to the taxpayer's tax for the
25 taxpayer's second taxable year.

26 (f) In the case of an organization to which Section 593 of the
27 Internal Revenue Code applies, and a regulated investment
28 company or a real estate investment trust subject to taxation under
29 this part, rules similar to the rules provided in Section 46(e) and
30 Section 46(h) of the Internal Revenue Code shall apply.

31 (g) The credit shall be reduced by the credit allowed under
32 Section 23621. The credit shall also be reduced by the federal
33 credit allowed under Section 51 of the Internal Revenue Code.

34 In addition, any deduction otherwise allowed under this part for
35 the wages or salaries paid or incurred by the taxpayer upon which
36 the credit is based shall be reduced by the amount of the credit,
37 prior to any reduction required by subdivision (h) or (i).

38 (h) In the case where the credit otherwise allowed under this
39 section exceeds the "tax" for the taxable year, that portion of the
40 credit that exceeds the "tax" may be carried over and added to the

1 credit, if any, in succeeding years, until the credit is exhausted.
2 The credit shall be applied first to the earliest taxable years
3 possible.

4 (i) (1) The amount of credit otherwise allowed under this section
5 and Section 23645, including any prior year carryovers, that may
6 reduce the “tax” for the taxable year shall not exceed the amount
7 of tax that would be imposed on the taxpayer’s business income
8 attributed to a LAMBRA determined as if that attributed income
9 represented all of the income of the taxpayer subject to tax under
10 this part.

11 (2) Attributable income shall be that portion of the taxpayer’s
12 California source business income that is apportioned to the
13 LAMBRA. For that purpose, the taxpayer’s business income that
14 is attributable to sources in this state first shall be determined in
15 accordance with Chapter 17 (commencing with Section 25101).
16 That business income shall be further apportioned to the LAMBRA
17 in accordance with Article 2 (commencing with Section 25120)
18 of Chapter 17, modified for purposes of this section in accordance
19 with paragraph (3).

20 (3) Income shall be apportioned to a LAMBRA by multiplying
21 the total California business income of the taxpayer by a fraction,
22 the numerator of which is the property factor plus the payroll factor,
23 and the denominator of which is two. For purposes of this
24 paragraph:

25 (A) The property factor is a fraction, the numerator of which is
26 the average value of the taxpayer’s real and tangible personal
27 property owned or rented and used in the LAMBRA during the
28 taxable year, and the denominator of which is the average value
29 of all the taxpayer’s real and tangible personal property owned or
30 rented and used in this state during the taxable year.

31 (B) The payroll factor is a fraction, the numerator of which is
32 the total amount paid by the taxpayer in the LAMBRA during the
33 taxable year for compensation, and the denominator of which is
34 the total compensation paid by the taxpayer in this state during the
35 taxable year.

36 (4) The portion of any credit remaining, if any, after application
37 of this subdivision, shall be carried over to succeeding taxable
38 years, as if it were an amount exceeding the “tax” for the taxable
39 year, as provided in subdivision (h).

1 (j) If the taxpayer is allowed a credit pursuant to this section for
2 qualified wages paid or incurred, only one credit shall be allowed
3 to the taxpayer under this part with respect to any wage consisting
4 in whole or in part of those qualified wages.

5 (k) (1) The credit authorized by this section shall not be allowed
6 on or after January 1, 2008.

7 (2) On or after January 1, 2008, taxpayers that would otherwise
8 be eligible to claim a credit authorized by this section may claim
9 a credit for these expenses under Section 23622.9.

10 (3) Notwithstanding this subdivision, the provisions of
11 ~~subdivision (f) of Section 23036 shall apply with respect to any~~
12 ~~remaining carryover of the credit previously authorized by this~~
13 ~~section.~~ *subdivision (f) of Section 23036 shall apply to allow*
14 *carryover of credits previously authorized by this section to taxable*
15 *years beginning on or after January 1, 2008.*

16 ~~SEC. 11.~~

17 *SEC. 13.* It is the intent of the Legislature that no inference be
18 drawn in connection with any matter governed by Sections
19 17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8, 23634,
20 and 23646 of the Revenue and Taxation Code, from the period to
21 which the amendments made to those sections by this act apply or
22 in connection with any matter governed by Sections 17053.76 and
23 23622.9 of the Revenue and Taxation Code, as added by this act,
24 for any taxable year beginning before January 1, 2008.

25 ~~SEC. 12.~~

26 *SEC. 14.* This act provides for a tax levy within the meaning
27 of Article IV of the Constitution and shall go into immediate effect.